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THE
Justice of the Peace,
AND
County, Borough, Poor Law Union, and
Parish Law Recorder.

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SNOWDEN'S Police Officers' Guide

WITH AN EPILOGUE OF

THE POLICE (ENGLAND) ACTS;

The Police Act, 1890; the Criminal Law
Consolidation Acts; the Licensing Acts;
the Summary Jurisdiction Acts;

AND

DIGEST OF RECENT CIRCULARS OF SECRETARY
OF STATE.

Tenth Edition, 1897,

BY

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*Of the Middle Temple, Barrister-at-Law; Late Chief Constable
of the Isle of Wight and Northamptonshire; formerly D.I.
Royal Irish Constabulary; Author of "The Constables'
Pocket Book"; the "Police Acts, 1839 to 1893," etc.*

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THE CONSTABLE'S POCKET BOOK.

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THE
CONSTABLE'S POCKET BOOK:
A CONCISE MANUAL
OF
POLICE DUTY & CRIMINAL LAW.

Twelfth Edition,

BY

T. O. HASTINGS LEES, M.A.,
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*Late Chief Constable of the Isle of Wight and Northamptonshire,
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PREFACE TO THE TWELFTH EDITION.

SINCE the publication of the last Edition of this little Book, several Acts affecting Police have been passed: "The Sale of Spirits to Children," "Wild Animals in Captivity," "Youthful Offenders Act," &c. An important change has taken place in the identification of prisoners by finger prints, and some interesting information on the subject (with diagrams) is given at pp. 17-20.

The scheme of the Pocket Book is to present to the junior Constable in an abridged form the information so fully set out for the senior Officer in "Snowden's Police Guide," and it is hoped that these two books and the Police Acts may embody all the necessary information required by a Police Officer.

T. O. H. L.

2, Garden Court,
Temple, E.C.,
June, 1902.

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INTRODUCTION.

POLICE ACTS, &c.

Police Forces were established in boroughs under the Act 5 & 6 Will. 4, c. 76 (1835), for which the "Municipal Corporations Act, 1882" (45 & 46 Vict. c. 50), is now substituted, and in counties under 2 & 3 Vict. c. 93 (1839), and 3 & 4 Vict. c. 88. The establishment of county forces was made compulsory in 1856 (19 & 20 Vict. c. 69). These and subsequent Acts (a)—passed in 1859, 1865 and 1890—provide for the appointment, pay, government, superannuation, &c., of the constabulary. The Police Act, 1890(b), contains new and special provisions regarding "Superannuation."

The Acts regulating the appointment of "Special" constables are 1 & 2 Will. 4, c. 41, and 5 & 6 Will. 4, c. 43; also 1 & 2 Vict. c. 80.

"Additional" constables (3 & 4 Vict. c. 88, s. 19) are appointed on the application and at the expense of private individuals.

The appointment of "Parish Constables" is restricted to certain parishes (35 & 36 Vict. c. 92).

(a) The Police (England) Acts (seven in number) are scheduled in Police Act, 1890.

See also pp. 58 and 129.

Reciprocal Powers.—By 19 & 20 Vict. c. 69, s. 6, constables of every county have in all boroughs (situated wholly or in part within such county), the same powers and privileges as constables appointed for such boroughs have and are liable to within any such county. *See note p. xv.*

Authority and Jurisdiction.—Police have only authority in the county or district for which sworn in; if called upon to act elsewhere they must be sworn in (a) for the fresh district, or be provided with a warrant properly “backed.” *See p. 30.*

In case of fresh pursuit (*see p. 30*) police can follow offender to seven miles from confines of jurisdiction.

Resignation without Notice.—No constable is to resign or withdraw himself from his duties unless expressly allowed to do so, or unless he shall give one month’s notice (Police Act, 1839, s. 12). The section is amended by sect. 4 of Police Act, 1859, which enacts that the “offending constable” shall forfeit all arrears of pay then due and be liable on conviction to a fine of £5.

Exemptions and Prohibitions.—Police are exempt from payment of toll when on duty in uniform;

(a) But under Police Act, 1890, s. 25, police can now serve out of district under agreement made between forces.

they are exempt from serving as overseers or in the militia. *Re "Reservists," see p. 60, post.*

They are restrained from undertaking "other employment for gain or hire."

Voting.—By the Police Disabilities Removal Act, 1887 (50 & 51 Vict. c. 9), the statutes disabling constables from voting at Parliamentary Elections are repealed, and by a later Act (1893) constables are enabled to vote at municipal, school board, and other elections (*b*). *Canvassing* is prohibited.

Protection of Constables.—Persons are liable to penalties for assaulting the police in the execution of their duty. By 24 & 25 Vict. c. 100, s. 38, it is a misdemeanor to assault, resist, or wilfully obstruct any police officer. Under the Prevention of Crimes Act persons assaulting the police are liable to a penalty of £20, or six months' imprisonment.

Liabilities.—Constables are liable to fine or imprisonment for neglect or violation of duty.

Actions.—A constable is entitled to a month's notice of action taken against him, and action must be commenced within six months of cause of action.

Where constable is "on duty" on the occasion, notice (7 days) should be given to chief constable.

DEMEANOUR, DEPARTMENT, &c.

It is of great importance that the police force should be respected by the public. Members of the force should act in the discharge of their various duties with the utmost forbearance, truthfulness, and civility towards all classes of His Majesty's subjects, remembering that as the security of persons and property is entrusted to their keeping and the maintenance of public tranquility confided to their care, they should at all times set an example in their own persons of order, sobriety, integrity, and propriety of conduct.

Every member of the force is to receive the lawful commands of his superior officers with deference and respect and to execute them without delay. The lawful orders and commands of Magistrates are to be at once obeyed. Magistrates are always to be saluted when met, and a constable, whilst addressing a Magistrate, or when giving evidence in a court of law, should stand in an upright and respectful manner. He should always reply courteously and respectfully to any questions asked him by persons seeking information, and he will best recommend himself to the respect and confidence of those amongst whom he is stationed by a conciliatory and forbearing manner.

“To be exercising austere authority upon every
“little occasion that may call for his interference
“will be to excite the ill-feeling of all observers,
“whilst the exhibition of good-tempered forbearance
“and friendly persuasion will not only enlist their
“sympathies, but in the end will greatly assist him
“in fulfilling those numerous and useful duties
“which the law of the country has charged him to
“execute.” (“Sanders’ Police Acts.”)

MAXIMS FOR CONSTABLES.

Constables are placed in authority to protect, not to oppress, the public. They should be impartial in the discharge of their duties, discarding all political and sectarian prejudices. A constable should avoid altercations and command his temper under insult or provocation. He should never strike but in self-defence, nor treat a prisoner with unnecessary rigour. He must practice the most complete sobriety. He should never sit down in a public-house or beer shop. He must exhibit deference and respect to the magistracy, and treat all classes of the community with the utmost civility. He must promptly and cheerfully obey his superior officers. He should always be perfectly neat and clean in person and attire. Every man should devote some portion of his spare time to the practice of reading and writing and preparation of reports, as ignorance is an insuperable bar to promotion.

POLICE IN BOROUGHES.

The following information applicable to Borough Forces was, (a) at the request of a Borough Official, specially inserted in the 9th Edition and is here retained.

The Act 5 & 6 Will. 4, c. 76 (1835), under which Borough Forces were originally established, was repealed by the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50). Part IX. of the Act contains provisions regarding the appointment, &c., of Police in Boroughs. The County and Borough Police Act, 1856 (b) (19 & 20 Vict. c. 69), and the Act of 1859 (22 & 23 Vict. c. 32), also contain provisions relating to Borough Police.

Appointment.—Sect. 190 of the Municipal Corporations Act, 1882, provides for the appointment of a Watch Committee, which under sect. 191 of Act, is empowered to appoint constables, and frame regulations, &c. The Watch Committee or any two justices can suspend or dismiss constables, but nothing contained in the section is to interfere with the opera-

(a) Extracted from *Snowden's Police Guide*, 10th edition.

(b) Sects. 5, 7, 9, of Act of 1856, and sections 2, 3, 7, 11, 24, of Act of 1859, are specially applicable.

tion of 3 & 4 Vict. c. 88 (c). Sect. 192 requires that quarterly returns be forwarded to Secretary of State.

Powers.—A Borough Constable shall be sworn in before a justice having jurisdiction in the Borough, and when so sworn shall have, within the Borough, in the County in which the Borough is situated, and in every County *within seven miles* from any part of the Borough and in all liberties in any such County, all such powers and privileges, duties and responsibilities as any Constable has and is liable to for the time being in his constablewick at common law or by statute, and shall obey the lawful commands of a justice having jurisdiction in the Borough or County in which Constable is called on to act (d). (Sect. 191.)

Apprehension.—A Borough Constable may while on duty apprehend any idle or disorderly person disturbing the public peace, or whom he may suspect of intention to commit a felony. (Sect. 193.)

Neglect of Duty.—If a Borough Constable is guilty of neglect of duty, or of disobedience to a

(c) Sects. 14 and 15 relate to consolidation of County and Borough Forces; also section 5 of 19 & 20 Vict. c. 69.

(d) But by Police Act, 1859 (sect. 2), no Borough Constable (and *vice versa* (see p. x.) no County Constable) shall be required to act outside Borough [or County] except in the execution of warrants or by order of superior officers.

lawful order, he may be imprisoned for ten days or fined 40s., or be dismissed. (Sect. 194.)

Assaults.—Persons assaulting Constables are liable to a penalty of £5. (Sect. 195.)

Special Constables.—Borough Justices are empowered (sect. 196) in October in every year to appoint "Special Constables" (*a*) who can act as Constables within the Borough at any time if required by the warrant of a justice, but *not* otherwise (remuneration, when acting, 3s. 6d. a day).

Watch Rate.—Sects. 197 to 200 of Act relate to levy of Watch Rate.

POLICE SUPERANNUATION.

This subject is now specially dealt with by the Police Acts, 1890 and 1893. *See* Chap. VIII., *post*.

(*a*) 1 & 2 Will. 4, c. 41, relates to appointment of Special Constables in cases of riot, &c. This power is enlarged by 5 & 6 Will. 4, c. 43. 17 & 18 Vict. c. 102, s. 8, exempts persons who are voters from service during Parliamentary Elections. 41 Geo. 3, c. 78, relates to expenses in execution of warrants.

PART I.

CHAPTER I.

CRIME AND CRIMINAL INVESTIGATION.

1. Every individual appointed to the police force ought seriously to consider the totally new position in which he is placed by his admission into the constabulary. He is by virtue of his office authorized and required to maintain the public peace, and to bring to justice those by whom it is infringed; but while the law confers upon a constable powers of arrest for certain offences, it at the same time requires that he shall exercise such powers legally, and with proper caution.

Every constable should therefore at once make himself acquainted with the nature of those offences of which he is bound to take cognizance, ascertaining under what circumstances he can and ought to interfere with the liberty of others, and what circumstances permit of procedure by information and summons, a course which, as it does not interfere with the liberty of the subject, and no question can be raised as to the legality of the process, should, when practicable, be adopted in trifling cases and minor offences.

The following information on these subjects is given for the instruction and guidance of men appointed to police forces :—

CRIME (a).

2. The object and end of a police force is the prevention of crime (b) and the detection of offenders. The constabulary are a preventive as well as a repressive force, and they should ever bear in mind that the prevention of crime is of even greater importance than the punishment of criminals.

3. Crimes and offences may be classified under two heads :—Felonies and Misdemeanors (c).

4. The term “Felony” is applied to nearly all serious crime.

The following are the principal Felonies :—Murder, manslaughter, rape, burglary, housebreaking, forgery, robbery, larceny, embezzlement, arson, &c.

Persons guilty of felony may be sentenced to penal servitude or imprisonment with hard labour.

A constable’s power of arrest in cases of *felony* is greater than in cases of *misdemeanor*. See p. 67.

5. “Misdemeanors” are crimes or offences of less serious character than felonies, such as assault, riots, frauds, obtaining goods or money by false pretences, &c. See title “False Pretences,” Part II., *post*.

Persons guilty of misdemeanors are punishable by fine or imprisonment.

The more serious misdemeanors are *indictable*.

(a) For Criminal Statistics, see p. 130.

(b) A crime is the violation of a right.

(c) To which may be added “minor offences.”

6. Persons guilty of felony and *indictable* misdemeanors are triable at Sessions or Assizes.

Such minor offences and breaches of the law as are not indictable are tried *summarily* before the magistrates.

[7. Under the Summary Jurisdiction Act, 1879, magistrates are able to deal *summarily* with many cases of felony, &c., formerly triable only at quarter sessions or assizes.]

8. The following are Definitions of various crimes and offences:—(d)

“*Burglary*” is the breaking and entering a dwelling-house—viz., a house in which people habitually sleep—with felonious intent in the *night-time* (between 9 P.M. and 6 A.M.). In this definition there are four things to be considered—(1) the time, (2) the place, (3) the manner, (4) the intent.

“*Housebreaking*” is the breaking and entering a dwelling-house, shop, warehouse, &c., with felonious intention in the *day-time* (6 A.M. to 9 P.M.).

“*Sacrilege*” is the breaking into a church, chapel, or meeting house with felonious intent.

“*Larceny*” is the wrongful taking and carrying away of the goods of another with the felonious intention of converting them to one’s own use (e).

Larceny is either simple or accompanied by circumstances of aggravation; the distinction of *grand* and *petty* larceny is now abolished.

“*Bailees*.”—Persons to whom goods are entrusted to be conveyed, repaired, &c., are

(d) As to “Criminal Investigation,” see p. 5.

(e) See Note (a) p. 104.

considered "bailees" of such goods. As to Larceny by Bailee, Larceny by Finding, Larceny by Trick, &c., *see* title "Larceny," Part II., *post*.

"*Robbery*" is the felonious taking of goods or money of any value from the person of another, or in his presence, against his will, by violence, or putting him in fear.

"*Forgery*" is defined as the fraudulent making or alteration of a writing to the prejudice of another man's right.

"*Embezzlement*" is the appropriation to his own use, by a clerk or servant, of goods or money entrusted to him for his employer. Embezzlement is a species of larceny. *See* title, Part II., *post*.

"*Arson*" is the unlawfully and maliciously setting fire to any church, chapel, stable, outhouse, building, stack, crop, &c. *See* page 6.

"*Rape*" is the carnal knowledge of a female forcibly, and against her will. A male under fourteen years of age is deemed by law incapable of committing a rape; he may, however, be convicted of an assault, or of aiding and abetting. *See also* page 8, and titles "Women and Girls," and "Offences against Person," *post*.

"*Concealment of Birth*" is an indictable misdemeanor. There must be a "secret disposition" of the body of the child. *See* p. 7.

"*Infanticide*." *See* title "Murder," *post*.

For definitions of Murder, Manslaughter, Perjury, Conspiracy, &c., *see* Part II., *post*, and pp. 5 to 10 as to "Criminal Investigation."

ATTEMPTED CRIME. (a) — Every attempt to commit a felony or misdemeanor is a misdemeanor unless otherwise provided *by statute*, as in case of attempted murder, which is felony.

(a) As to attempt to pick pocket where pocket is empty, *see* title "Larceny," Note (e), p. 107, *post*.

CRIMINAL INVESTIGATION, ETC.

9. In all cases of outrage the constable to whom the outrage is reported should at once visit the scene and make immediate enquiry, taking such steps as the nature of the case appears to demand.

If the case is one of murder, burglary, or other serious crime, the constable should at once send a messenger to inform his superior officer, he himself continuing his enquiries on the spot. The messenger should be directed to inform all constables on the road, as it is desirable that the intelligence should be spread as widely and speedily as possible.

10. In cases of Murder the constable should, if practicable, at once call in a surgeon to examine the body. The position in which the body is found should be carefully noted. Search should be made for any instrument with which the murder may have been committed. The motive should, if possible, be ascertained, and immediate enquiry made regarding any person or persons suspected.

11. In cases of Burglary or Housebreaking special notice should be taken of the manner in which an entrance has been effected, with a view to ascertaining whether the outrage has been perpetrated by persons acquainted with the place or by strangers. Enquiry should be made at public-houses, railway stations, &c., to ascertain whether any suspicious persons have been seen about. An accurate descrip-

tion of the articles stolen should be taken and at once circulated, copies being sent to the police in neighbouring towns for their information and for the information of pawnbrokers and others.

Careful search should be made of all adjoining premises, outhouses, sheds, &c., for traces of the thieves or of the stolen property. The ground under the windows and around the house should be closely examined, and if footmarks be found they should be measured and securely covered with boards, or other means of protection, in order to preserve them.

12. In cases of Fowl or Sheep stealing careful search should be made at gateways, gaps in hedges, &c., for tracks or traces of feathers, wool, &c.

In cases of Fowl stealing the property is frequently hidden by the thieves in adjoining fields or premises and subsequently removed.

Hidden Property.—Should property so hidden be discovered it should on no account be removed, but carefully watched. Persons observed carrying property in bags or bundles at night or during the early hours of the morning should be carefully watched. If circumstances warrant it they may be stopped, and questioned, and the property examined.

13. In cases of Arson it will generally be found that the incendiary, viz., the person setting fire to the house or property bore some malice or ill-will to the owner, although cases of incendiary fire sometimes occur where stacks of corn, &c., are set on fire by persons bearing no ill-will to the proprietor, but actuated merely by wantonness and mischief. Occa-

sionally cases occur in which persons in needy circumstances set fire to their own property in order to gain the amount of money for which it is insured, and which in such cases is usually beyond the value of the property insured.

In cases of fire a close watch should be kept on the movements of Pickpockets and any suspicious persons observed in the crowd, and care should be taken to prevent their gaining access to the premises for the purpose of carrying off any portable property.

14. Pickpockets at races, fairs, &c., should be closely watched by the police. Officers employed on this duty should wear plain clothes.

15. The offence of "Uttering Counterfeit Coin" is an indictable misdemeanor. Efforts should be made to obtain possession of the coins tendered or uttered. They should be marked so that they can afterwards be identified. The offenders should be at once apprehended and immediately searched to ascertain if they have any other coins in their possession; where proceedings are instituted the Mint should be communicated with.

If any person who has been previously convicted of misdemeanor or offence under Act again offends he can be indicted for Felony.

16. "Concealment of Birth" is an indictable misdemeanor. It is necessary to prove that the accused was delivered of a child. A dead body must be found and identified as the child of which the woman is alleged to have been delivered. In order to sustain the charge it is necessary to show that there was a

“secret disposition of the dead body.” In cases of concealment of birth it is desirable that the supposed mother should be examined by a doctor, but a constable has no authority to subject her to such an examination unless she consents and that a magistrate so directs (*a*). It is desirable to obtain a warrant before arresting. *See* chap. IV., *post*.

17. *Rape*.— *See* title “Offences against Person,” Part II., *post*.

The following circumstances support the testimony of the woman ravished: Her credibility, good fame, marks of violence on her person, discovering the offence without delay, and looking for the offender if party accused has fled.

The following circumstances weaken her testimony: Evil fame, concealing the injury, if place of offence was where she might have been heard, and she made no outcry.

Note.—In cases of Rape the woman, if she consents, should be examined by a doctor without delay.

IDENTIFICATION AND FOOTMARKS.

18. Regarding the identification of stolen property recovered, it will (where the nature of the article admits) materially strengthen the identification if the article to be identified be placed among others of a similar character and the owner be then asked to point out his own property.

(*a*) There is no authority to order a surgical examination (*Agnew v. Johnson*).

In the identification of individuals—the person to be identified can be placed amongst others of his own height, and appearance, and of his own position in life.

19. In comparing footmarks, it should be borne in mind that the comparison is *not* to be made by placing the boot or shoe *over* the footmark which has been discovered, but by making a *new impression* by the side of it.

The comparison should also be made with the boots or shoes of both feet, and several of those comparisons should be made, and if possible, in the presence of witnesses; the corresponding peculiarities of the boots or shoes with the footmarks discovered should be pointed out and immediately committed to paper. A model may be taken of a footmark by running plaster of Paris into it, and allowing it to set.

A mere similarity in the sole of a boot or shoe, with a footmark, is of little or no value in evidence; a striking peculiarity must be detected to render such resemblance valid; such as the loss of a nail, or nails, of a plate, or a piece of a plate, or some other peculiarity or corresponding irregularity, which may identify beyond a doubt the footmarks with the boots or shoes compared with them.

IDENTIFICATION BY FINGER PRINTS.

On 15th July, 1901, an alteration was made in the method adopted for the identification of prisoners. The taking of measurements was discontinued, and the method of identification by finger prints alone was introduced. All necessary information on the subject can be obtained at New Scotland Yard, and details

of system are contained in a book issued to Police entitled "*Classification and Uses of Finger Prints*" (*H.O. Circular, A 63109, 3rd Feb., 1902*). See diagrams, pp. 17-20.

DETECTIVE DUTIES.

20. All the steps taken by a constable to detect a crime after it has been committed, come under the head of "detective duties."

It is difficult to positively define these duties—the circumstances of the case, the nature of the crime, and the class of people with whom the officer comes in contact, must guide him as to the manner of enquiry, and the course to be pursued in each particular case.

A detective officer should possess intelligence, tact, and good common sense, the faculty of obtaining information from others, and at the same time keeping his own counsel and opinions.

Information regarding crime is not unfrequently obtained from persons who themselves belong to the criminal classes. Secrecy should be observed regarding the names of informants.

Note.—An officer engaged on detective duty must use every exertion, and adopt any means he legitimately can to discover the perpetrators of crime, but in doing so he must carefully avoid, in any way, compromising his own position or the credit of the service to which he belongs.

CHAPTER II.

ARREST.

1. An arrest on a criminal charge can be made (1) by warrant, (2) by a constable without a warrant, (3) by a private person also without a warrant.

A private person can only arrest *at his own peril* for crimes not committed in his presence, whereas a constable can arrest, without a warrant, on *reasonable grounds of suspicion*.

Giving in Charge.—A constable can receive over from a private individual an alleged offender whom he desires given in charge, if there be reasonable grounds of charge; but he should require the complainant to go with him to the police station and declare his name and address.

2. *Mode.*—In arresting without a warrant, a constable should, if not already known, declare who he is and his authority, he should also state the cause of arrest in a clear and distinct manner. In order to complete the arrest, the officer must actually touch or restrain the offender. Every exertion must be made to effect the arrest, but an arrest should be made quietly; attracting as little attention as possible, and no unnecessary violence should be used. A police officer must act gently, as long as possible, *preserving his temper*, even if in danger of his life.

3. *Warning*.—If a constable finds his exertions insufficient to effect the arrest, he ought to *warn* one or more of the bystanders to assist him, and it is an indictable misdemeanor in any one so warned to refuse.

4. *Breaking Doors*.—If a party accused of felony takes refuge in a house, or if persons are fighting furiously in a house, and a felony appears likely to be committed, a constable may *break open the doors*, if necessary, to get in, provided he first demands admission, stating who he is and his business; but the breaking open of outer doors is so dangerous a proceeding, that the constable never should resort to it except in extreme cases, and when an immediate arrest is necessary.

Whenever a person is lawfully arrested for any cause, and afterwards escapes and shelters himself in a house, the doors may be broken open to retake him.

5. *Time*.—An arrest, with or without a warrant, may be made at any time in the day or night. An arrest under a warrant may be made on Sunday in cases of treason, felony, or breach of the peace, and in those cases where an arrest may be made without a warrant. (“Stone’s Justices’ Manual.”)

Search warrants can be executed on Sunday, but Bastardy warrants cannot.

ARREST WITHOUT WARRANT.

6. *Common Law*.—A constable, as a conservator of the public peace, may at common law arrest any person, without warrant, on the *reasonable belief* that

he has committed *felony*. Even though the constable may not have seen the felony committed, yet if he has reasonable grounds for believing that a felony has been committed, either from his own suspicion or the reasonable assertion of others who may be supposed to be aware of the facts, he will be justified in apprehending the party suspected. He may also arrest, without warrant, for *an attempt* to commit a felony within his own view.

In cases of *misdemeanor* a constable has, as a general rule, no right to apprehend without a warrant for an offence not committed in his actual presence; but if the misdemeanor be an *indictable* one, and committed in his presence, he may at once apprehend the offender.

The class of misdemeanors with which a constable will chiefly have to deal will be Assaults and other Breaches of the Peace. See title "Assault," Part II. and Chapters V. and VII., *post*.

7. *Breaches of the Peace*.—Where breaches of the peace are committed *within the view* of the constable, he should immediately interfere, separate the combatants, and prevent others from joining in the affray. If the disturbance be of a serious nature, or if the offenders do not immediately desist, he should take them into custody, securing also the principal instigators of the tumult, and do everything in his power to restore order; but if the offenders desist, it is better to take names and summons.

In the case of an assault *not committed in his presence*, the constable would not be justified in arresting the accused person, unless it was evident that a

serious assault had been committed, or a dangerous wound given. He should, however, in all cases of common assault endeavour to ascertain for the complainant the name and address of the person he accuses. Should either of the parties attempt to renew the affray, the constable will be justified in immediately apprehending the offenders.

Note.—In all cases of assault, riot, &c., a constable should exhibit a great amount of forbearance before exercising his power of arrest.

8. *Abusive Language.*—If persons be merely quarrelling or insulting each other by words, the constable has no right to take them into custody, but he should be ready to prevent breach of peace.

If a person annoys another by abusive language or constantly following him, whereby a breach of the peace may occur, such person can be proceeded against and summoned by the party aggrieved (a).

9. *Statute Law.*—In addition to their powers of arrest at “common law,” constables and, in some instances, private individuals can, under the “statute law,” arrest without warrant persons “found committing” offences against certain statutes.

The principal of these Statutes are:—

The Vagrant Act. The Prevention of Crimes Act. The Criminal Law Consolidation Acts, which include the “Larceny Act,” “Malicious Damages Act,” &c.

(a) It is a condition precedent to application that complainant go “in fear of bodily harm.”

As to “Surety of Peace,” and “Good Behaviour,” see *Haylocke v. Sparke*, 22 L.J. 67.

Constables have also powers of arrest without warrant *under certain circumstances*, under the Act for the Prevention of Cruelty to Animals; the Acts relating to Army Discipline—as to arrest of Deserters, &c.; the Pedlars Act; and other Acts of Parliament. *See* under pertinent titles. Part II., *post*.

Under the Municipal Corporations Act, 1882, borough constables may apprehend any idle and disorderly persons whom they shall find disturbing the public peace, or whom they shall have just cause to suspect of an intention to commit felony; and in districts where the “Town Police Clauses Act, 1847,” is in force, constables appointed under that Act may apprehend without warrant any person committing in the public streets, and within their view, the offences enumerated in the 28th section. *See* title “Town Police Clauses Act” (Part II.), *post*.

10. Notwithstanding the powers of arrest without warrant conferred upon a constable by the common and statute law, it is much the *safer course* in all cases which do not require immediate interference, and where there is no danger of the offender absconding, to obtain a magistrate’s warrant before arresting. Regarding cases of “fresh pursuit,” where the offender escapes out of the jurisdiction of the justice granting the warrant, *see* “Warrants,” Chap. IV., *post*. In trifling cases and minor offences it is best, when practicable, to proceed by information and summons.

(*Summary.*)—The following is a Summary of the principal crimes and offences for which a constable can arrest offenders without a warrant :—

Offences against the *person* (24 & 25 Vict. c. 100). Murder, manslaughter, wounding, &c. . . Abduction, rape, abortion—using means to procure—concealment of birth, child stealing, bigamy, sodomy, and bestiality.

Offences against *property* (24 & 25 Vict. c. 96). Robbery, burglary, housebreaking, stealing from dwelling-house, &c., larcenies generally, embezzlement, receiving stolen goods, obtaining goods and money by false pretences, fraud, &c.

In all cases of *fraud*, however, the constable will do well to protect himself by the warrant of a justice.

Malicious injuries (24 & 25 Vict. c. 97). Arson, killing or maiming cattle or other animals, injuries to houses, goods, &c. Malicious injuries to trees, shrubs, vegetable productions, fences, walls, &c. (Sect. 61 of Act authorizes the immediate apprehension of any person found committing offences.)

Also the crimes of forgery and offences against the coinage, uttering counterfeit coin, &c. (24 & 25 Vict. cc. 98 and 99).

Persons can also be arrested without warrant for offences against the Penal Servitude and Prevention of Crimes Acts; and for the crimes of treason, smuggling, conspiracy, night poaching, &c.

The following persons are liable to arrest without warrant,—deserters, pedlars without license, persons found at night in any highway, &c., whom the constable may suspect to be about to commit a felony, persons committing breaches of the peace, offenders against the Vagrant Act, &c.

The following is a facsimile of form used at New Scotland Yard by the Criminal Investigation Department. See p. 9.

NAME		MEASUREMENTS.	
Year of Birth	Complexion	Head Length	
Hair	Eyes	Head Breadth	
Height	ft. in.	Face Breadth	
*Sentenced at		Left Mid. Finger	
" on		Left Cubit	
" to		Left Foot	
" *for		Signature of Measurer	
* Give offence in full, and if remanded only, substitute "Remanded " for "Sentenced."		NOTE. —The above Measurements are only to be taken when this Form is sent to the Hab. Crim. Registry for purposes of search. They are not to be taken when it is sent for record only previously to the prisoner's discharge.	
REMARKS.			






MALE.

This Form is not to be pinned.

H.C.R. No.	_____
Name	_____
Aliases	_____
Prison	_____
Prison Reg. No.	_____
Classification No.	_____

RIGHT HAND.

1.—Right Thumb.	2.—R. Fore Finger.	3.—R. Middle Finger.	4.—R. Ring Finger.	5.—R. Little Finger.
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(Fold.) Ulnar.	/ Radial.	\ Ulnar.	W (Wall)	(Fold.) Ulnar.

Impressions to be so taken that the flexure of the last joint shall be immediately above the black line marked (Fold). If the impression of any digit be defective a second print may be taken in the vacant space above it.

When a finger is missing or so injured that the impression cannot be obtained, or is deformed and yields a bad print, the fact should be noted under *Remarks*.

LEFT HAND.

6.—L. Thumb.	7.—L. Fore Finger.	8.—L. Middle Finger.	9.—L. Ring Finger.	10.—L. Little Finger.
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d.,

Ut,



o

ar.

<i>Impressions taken by</i>	<i>Rank</i>	<i>Prison</i>
<i>Governor's Signature</i>	<i>Date</i>	
<i>Classified at H.C. Registry by</i>	<i>Date</i>	
<i>Tested at H.C. Registry by</i>	<i>Date</i>	

LEFT HAND.

Plain impressions of the four fingers taken simultaneously

**RIGHT HAND.**

Plain impressions of the four fingers taken simultaneously.



CHAPTER III.

PRISONERS, &c. (a)

1. Persons arrested by the police should be at once taken to the lock-up of the station or district.

2 Having effected an arrest the constable has no power (beyond providing for his safe custody) to deal with a prisoner, otherwise than by taking him before a magistrate as soon as he reasonably can. He has no personal power of discharging a prisoner (except in a case of wrongful custody of an entirely innocent person, when further detention would be illegal), but having taken a suspected party into custody he must,—except in certain cases where bail can be taken,—be conveyed before a magistrate as soon as possible, to be dealt with according to law.

3. If a rescue be apprehended, or if the party arrested be sick, the constable may keep him for the time in a house or other place of security. (As to *re-arrest* of prisoner who has escaped, see p. 31. As to *identification*, see pp. 17-20.

4. Prisoners are to be treated by the constabulary with the humane consideration which their situation and safety will admit of, and no harshness or unnecessary restraint is to be used towards them. Every reasonable allowance should be made for the feelings of a prisoner by his escort, but as the escape

(a) By Prisons Act, 1898, prisoners not sentenced to penal servitude or hard labour shall be divided into *three* classes.

of any prisoner may demand the dismissal of the officer in charge of him, it behoves the police to be vigilant in the discharge of this duty.

5. **Handcuffing, &c.**—A constable should always be able to show “good special reasons” for handcuffing *unconvicted* prisoners. Cases have occurred where actions have been maintained against the police for handcuffing persons in custody, arrested on suspicion, who were subsequently acquitted of the charge preferred against them. Where the prisoner is a man of notoriously bad character, or violent, or dangerous, or where he threatens or assaults the constable or attempts to escape, or where the constable, having two or more prisoners in charge, is unable otherwise to secure their safety, or in cases where the offence is of a very serious nature, the constable would be justified in handcuffing a prisoner. In the absence of such reasonable grounds, prisoners charged with drunkenness or trivial offences should not be handcuffed. Neither should females or old or infirm persons be handcuffed.

Note.—Prisoners should be handcuffed with the arms across the front of the body, and not with the hands palm to palm.

6. **Diet.**—The constabulary are responsible that prisoners are supplied with proper and sufficient food whilst in their custody. They should on no account be allowed to have beer or spirits without the order of a medical man.

7. Medical aid.—Medical aid is to be promptly afforded to any prisoner requiring it. Officers in charge of stations should carefully examine each prisoner whom they receive before locking him up, and, if they notice anything doubtful, obtain medical assistance.

8. Searching.—When prisoners are searched the search should, if possible, be made in the presence of a witness. Female prisoners should be searched by some respectable woman, and, when practicable, in the presence of a second female.

“The right of searching persons in custody must depend on the circumstances of each particular case, and the mere fact of a person being drunk and disorderly will not justify a police officer searching his person, although the officer may have received general orders to search all persons in custody, but any person, whatever may be the nature of the charge, may so conduct himself by reason of violence of language or conduct that it may be prudent and right to search him, as well for his own protection as for those entrusted with the duty.” (Extract from “Stone’s Justices’ Manual.”)

Lord Campbell held (in the case of *Bessell v. Wilson*, 20 L. T. 238) that it would be the duty of a magistrate to direct a search in case of a person arrested for felony, in order to ascertain if there were any instruments in his possession with which he might have been engaged in the violation of the law.

A list should be kept and proper entry made in official books of property found on prisoners, and a receipt should be taken for same when returned or when handed over to prison authorities.

9. Note.—The constabulary are enjoined *not to converse* with their prisoners or question them as to the crimes with which they are charged.

10. QUESTIONING, CAUTIONING, &c.—When a constable suspects a person of committing an offence it may be necessary for him to put certain questions to ascertain whether he will be justified in apprehending him, *but from the moment an officer has made up his mind to apprehend he has no right to further question the suspected person.*

The following is the effect of observations on the subject, made by the late Lord Chief Justice Cockburn, at the Central Criminal Court, July 16th, 1870:—You may ask a man questions with an honest intention to elicit the truth and to ascertain whether there are grounds for apprehending him ; but, with a foregone intention of arresting him, to ask questions for the main purpose of getting anything out of him that may be afterwards used against him, is a very improper proceeding.

11. Various opinions exist as to whether it is incumbent on a constable to “caution” a person in custody on a criminal charge, against saying anything that may criminate him, by informing him that it will be given in evidence against him. Judicial opinions have been given both in favour of and against such a practice. The best course appears

to be for a constable to inform a prisoner at the time of his arrest that he is in custody, and that anything he may say may be used in evidence against him. If the prisoner, after this, does make any statement, it cannot be objected to if given in evidence. A note should be made *at the time* of any statement a prisoner may make.

12. Constables must carefully avoid holding out to any prisoner any promise, or endeavouring by threat or any other means to extract from a prisoner any *confession*. A constable should listen to any *voluntary statement* a prisoner may choose to make, but such statement will be inadmissible as evidence if it appears that it was made under the influence of any promise or threat, however slight.

13. Conversations and remarks which were not made *in the presence* of the prisoner, cannot be given in evidence; but evidence of a complaint made shortly after a crime is committed, as by a woman of having been violated, is not *hearsay*, but original, evidence of a *fact*.

Note.—In apprehending offenders (*a*) the circumstances accompanying the proceeding will frequently be of importance in the investigation which will afterwards take place. It is most desirable, therefore, that the constable should be vigilant to observe and remember all that takes place; and if he at all distrusts his own recollection, he should at the time, or before the events have faded from his memory, make a note of them, in order that he may, if required, give them in evidence. (“*Sanders’ Police Acts.*”)

(*a*) As to production of prisoners in court, *see* p. 29.

EVIDENCE.

“Evidence” includes all the legal means exclusive of argument which tend to prove or disprove any fact, the truth of which is submitted to judicial investigation.

General Rules.—That the best evidence the nature of the case will admit of shall be produced. Hearsay evidence in general is inadmissible (*a*), conversations and remarks, not made in presence and hearing of accused, cannot be given.

Expert Evidence.—The “opinion” of a witness as to any fact in issue is inadmissible, unless as “expert” evidence on questions of skill and judgment.

Circumstantial Evidence.—When direct evidence cannot be obtained circumstantial or presumptive evidence is admitted, but it should be admitted cautiously ; it should be such as to produce nearly the same degree of certainty as that of direct testimony, and should exclude any rational probability of innocence.

Character.—In criminal proceedings the fact that the accused has a bad character is unimportant unless it is itself a fact in issue, or that evidence of good character has been given.

(*a*) Evidence of the *fact* of a complaint having been made shortly after a crime has been committed is not hearsay, but original evidence.

Guilty Knowledge.—The possession of stolen property *recently* after the theft is *prima facie* evidence that the possessor is either the thief or receiver.

Children.—The evidence of children is admissible if they appear to understand the nature of an oath. The unsworn evidence of a child of tender years is receivable under certain circumstances.

Handwriting may be proved by writer himself, by person who saw same written, or who has a knowledge of the writing, or by evidence of “experts.”

Depositions.—Depositions properly taken are admissible in event of death of deponent if it be proved that same were taken in presence of accused.

Dying declarations are constantly admitted in evidence; they may be taken by any person; but where time permits, they should be taken before a magistrate,—they need not be in writing, but if possible should be; there is no particular form of declaration,—they do not require to be sworn to, the awful situation of the dying person being considered equal to the sanctity of an oath. It is essential that the declarant should be in actual danger of death,—that he should fully apprehend his danger, and have no expectation of recovery.

Confessions.—As to “confessions.” see p. 25, *ante*.

The Criminal Evidence Act, 1898 (61 & 62 Vict. c. 36), amends the Law of Evidence in an important particular as regards prisoners.

Section 1 enacts that every person charged with an offence, and the wife or husband, as the case

may be, of the person so charged, shall be a competent witness for the defence at every-stage of the proceedings.

An important decision was given in *Rex v. Hadwen and Ingham*, K.B.D. (C.C.R.). The prisoners were charged jointly, and volunteered evidence, the contention that each could be cross-examined in interest of fellow-prisoner was upheld. ("Times" report, 27th April, 1902.)

CONSTABLES GIVING EVIDENCE.

14. Constables are, when giving evidence, to state only such facts as they are acquainted with from *personal knowledge*. They should never hesitate to answer questions which may be favourable to the prisoner. The question of conviction or acquittal should in no wise influence the constable. Questions should be answered briefly and truly, in a distinct tone of voice, without hesitation. Constables are often subjected to severe cross-examination by counsel for the defence, who sometimes comment unfavourably on the constable's conduct in the case, or infer that the statements made are untrue. Constables should, in such cases, keep their tempers, and answer respectfully and quietly, keeping nothing back, even though it may be unfavourable to them. If a constable has spoken the truth, and the *whole* truth, he has no need to feel nervous under cross-examination.

15. Constables can make notes regarding cases at the time they occur, or immediately afterwards. The *original* notes made at the time should be preserved.

They may refresh their memories by referring to their notes before entering the witness-box. Should they refer to them *in the witness-box* the notes may have to be handed in. A constable may, before a case comes on for trial, ask to read over his depositions. Where prisoners have made confessions or statements, the *exact words* used by them should be given in evidence. Disgusting and filthy language should not be repeated, unless the witness is specially called upon to state the exact words made use of.

16. A constable, when giving evidence, should maintain a quiet and grave demeanour, and not give way to unseemly mirth, however ludicrous the subject.

PRODUCTION OF PRISONERS IN COURTS.

This matter is dealt with very fully in Home Office Order A 58565/15-16/8/99. The passing of the Prisons Act, 1898, has simplified the procedure. Under Section 11 of that Act the Secretary of State has power to make an order (a) for the production of any prisoner at such time or place as may be required, thus making application for *Habeas Corpus* or the objectionable practice of re-arrest at prison gates unnecessary.

(a) Application for production should be made in due time before completion of sentence. .

CHAPTER IV.

WARRANTS AND SUMMONSES.

1. As a constable acting under the authority of a warrant is in a better position to follow and arrest an offender than a constable acting without warrant—by virtue of his office only—it is always advisable, where time admits, to procure a warrant for the arrest of offenders.

2. FRESH PURSUIT.—In cases of fresh pursuit when the offender escapes out of the jurisdiction of the justice into an adjoining county or place, the constable or person having the warrant, if *in actual pursuit*, may follow the offender to the distance of seven miles from the border or confines of the jurisdiction. A constable arresting on suspicion without a warrant beyond the jurisdiction may render himself liable to an action for wrongful arrest and false imprisonment.

“*Backing*” warrants.—Except in cases of fresh pursuit, a warrant cannot be executed *beyond the jurisdiction* of the justice issuing it, unless it be “backed,” viz., endorsed by a justice of the county in which it is to be carried into execution. The justice backing the warrant must be satisfied that it is a lawful warrant. A “declaration” made by the constable holding the warrant that the signature of the warrant is in the handwriting of the magistrate by whom it purports to be signed is sufficient proof that it is a lawful warrant. (Sect. 41, Summary Jurisdiction Act, 1879.)

3. In arresting with a warrant the party arrested may be shown the warrant if he desires it, for by so doing any question as to the legality of the arrest will be prevented and much trouble may be saved.

If the warrant is directed to the constable he cannot authorize others to execute it, but others may lawfully assist him to do so, and in that case he should be near at hand and acting in the arrest in order to render it legal.

The constable *should not part with the warrant* under any circumstances prior to its execution, but after execution he should hand it to his superior officer that it may be carefully filed at the station and preserved for the constable's future protection. *A warrant continues in force until it is fully executed and obeyed.*

The dates of receipt and execution of all warrants and by whom executed must be punctually endorsed thereon.

In proceeding to execute warrants and other police duty constables should act with the utmost discretion and silence, communicating with no one, except members of the force, concerning their movements or the nature of the service on which they are engaged.

Retaking.—It has been held that if a constable after he has arrested the party lets him go at large on his promise to come again and find sureties, he cannot afterwards arrest him by force of the same warrant, but if a party arrested *do escape*, the constable on fresh pursuit may take him again and again so often as he escapes.

4. *Note.*—By the 19 & 20 Vict. c. 69, s. 6, constables of every county have in all boroughs (situated wholly or in part) within such county the same powers and privileges as constables appointed for such boroughs have within any such county. These privileges are defined in the 191st section of the Municipal Corporations Act, 1882. Sect. 223 of that Act provides for the execution in a county in which any borough is situated of a search warrant or a warrant for the apprehension of any person charged with an offence issued by a justice of the peace for such borough without the same being backed by a justice of the county. *Similar warrants* therefore issued by a justice of any county within which a borough is (wholly or in part) situated do not necessarily require “backing” for execution within such borough. Warrants of commitment and other warrants issued by a county justice should be “backed” before being executed in such boroughs where such boroughs have a separate police jurisdiction. *See Reg. v. Cumpton*, “Justice of the Peace,” vol. 44, p. 489.

5. **Search warrants.**—A search warrant is granted by a magistrate on the oath of a credible witness that there is suspicion that a person had on his premises or in his possession stolen goods or any property unlawfully come by, and it can by law be executed on a Sunday. When a search warrant is given to a constable to carry into execution he should demand admittance to the premises, and if refused he may break open the doors.

A warrant directing a search in a particular house

only will not justify a search in another. In case a further search is necessary another search warrant should be obtained, a watch being meantime kept upon the suspected house and inmates. A search warrant is required for the constable's protection in case nothing is found. It is doubtful whether a search without warrant would be justifiable, even with the consent of the occupier. (23 J. P. 94.)

But in the event of a serious felony having been committed and the stolen property traced into a house and its being there as certain as if it were seen, a constable would run no risk of an action for damages if he entered and seized both the property and the suspected thief. But the greatest caution is necessary in such a case.

The constable must strictly observe the directions of the warrant, and if he be directed to seize only stolen sugar, and seize tea, he will be a trespasser. But this is to be understood as confined to a case where the tea seized turns out *not to be stolen*, for nothing is more common than on searching the house of some notorious thief to find other stolen articles than those searched for, and it is an every day practice for constables to secure such as well as the party suspected, and thereby bring him to justice. But as the constable has no warrant to fall back upon in such a case, he should be *most certain* that the article so found has really been stolen, and that the proof of such felony is at hand before he takes either the goods or the party into custody.

The constable must have the warrant in his personal possession at the time of the search, and pro-

duce it if required. *See Code v. Cave*, "Justice of the Peace," vol. 40, p. 506.

6. Distress warrant.—The regulations regarding issue, execution, &c., of warrants of distress are given in the Summary Jurisdiction Act, 1879.

An officer or constable legally authorized to distrain can enter on the premises for the purpose of making a seizure of the distress. In executing these warrants there is *no power to break open doors* or gates in case they are locked up or shut, and the constable is to show his warrant on request to the person whose goods are distrained, and suffer a copy of it to be taken, but in no case to part with his warrant.

When the distress is levied on household goods the goods shall not be removed from the house until the day of sale, except with the consent in writing of the person against whom the distress is levied, but so much of the goods shall be impounded as are in the opinion of the person executing the warrant sufficient to satisfy the distress, by affixing to the articles impounded a conspicuous mark. Any person removing the goods so marked or removing the mark therefrom is liable to a penalty. The wearing apparel and bedding of a person and his family and the tools and implements of his trade to the value of £5 shall not be taken under a distress issued by a court of summary jurisdiction.

If no sufficient distress is found the constable is not to seize or impound *less*, but report to the magistrate that there is no sufficient distress, and he will then commit the defaulter to prison.

Care must be taken not to make an *excessive* distress, that is, not to seize several articles which altogether amount to far more in value than is wanted.

Goods distrained are to be sold by public auction, and for this purpose the constable distraining will secure the services of an auctioneer.

The constable is to certify to the magistrate who grants the warrant what has been done under it. A form of return is printed on back of warrant.

Note.—The police when called on are bound to assist sheriffs' officers and county court bailiffs in the performance of their duties, and may receive into their custody persons charged with committing assaults upon them. The police should in all cases require the sheriffs' officer or county court bailiff to produce the writ or other authority under which he is acting.

SUMMONSES, &c.

7. An officer or constable on receiving a summons to serve will carefully compare the copy with the original and see that they agree, so as to be able to swear that it was a "true copy" which he served.

The summons should (unless it contains instructions to the contrary) be served *personally* on the party to whom it is directed as soon as possible, but so (if it be practicable) that *three clear days* may elapse between the service of the summons and the date of hearing. If the service of the

summons *personally* cannot be accomplished it will in most cases be sufficient to leave a copy at the usual place of abode of the person to whom it is addressed, such copy to be left with some inmate of the house over the age of sixteen years. The nature of the summons should be explained to such person, and the constable should ascertain and make a note of the Christian and surname of such person and also the degree of relationship (if any) to the person summoned.

The officer or constable should keep the original of the summons, and as soon as he conveniently can after such service he should endorse, viz., write on the back of the summons the day of the month that the service took place, and whether it was personal or by leaving it, and if so with whom and where.

The original of the summons is to be carefully preserved, and the officer or constable will attend the hearing of the case at petty sessions to prove the service if necessary.

Note.—Constables will bear in mind that they have no authority to alter or to make a copy of a summons or order which must be obtained in duplicate through their superior officers from the magistrates' clerk.

8. **Bastardy summons.**—Bastardy summonses must be served *six clear days* before the hearing, and may be served by the constable of another police force on his making a declaration of such service.

Regarding service of bastardy summonses upon soldiers, *see* "The Army Act, 1881" (44 & 45 Vict. c. 58, s. 145). The summons is not valid if served after the soldier is under orders for service beyond the seas. *See also* p. 69.

9. Summonses under Employers and Workmen Act must be served four clear days before the hearing.

10. Service of orders.—An order is served by delivering a copy to the party affected by it, and at the same time showing him the original order, but if the magistrate has signed both, which are then called "duplicate originals," one may be served and the other need not be shown.

11. Attendance of witnesses.—The attendance of witnesses is obtained by a witness summons which must be personally served or brought to the knowledge of the witness. A witness refusing to give evidence may be committed for contempt (*a*).

Note.—Appearance to a summons "waives" any irregularity of service.

(*a*) Except as above stated, justices have no power to commit for "contempt of court," but anyone who offends can be removed from the court.

CHAPTER V.

DUTIES IN SUB-DIVISIONS.

BEAT AND PATROLS.

1. When a sergeant or constable takes charge of a beat or sub-division he should with as little delay as possible make himself acquainted with the persons residing within it, and the several places of public resort. He should obtain a knowledge of all reputed thieves, and idle and disorderly persons, and watch narrowly all persons having no visible means of subsistence. He must do his utmost to suppress vagrancy. *See title "Vagrancy," Part II.*

2. **Staff and Handcuffs.**—A constable, when on duty, should always carry with him his staff and handcuffs. Great discretion is required in the use of both handcuffs and staff. A constable should not use his staff or truncheon except in cases where his life is in danger, or to prevent the escape of a felon, or in dispersing rioters. Where the truncheon is used blows should not be given on the head or face. A staff is a heavy weapon, and blows delivered with it on the shoulders and arms of an opponent will generally suffice to disable him. Regarding handcuffing prisoners, *see Chap. III., para. 5, note.*

3. **Patrols.**—The duties of a division cannot be performed efficiently without the establishment of a proper system of patrols and conferences, which should be carried out under the general instructions of the district officers.

The patrolling from each station should be regulated with a view not only to the sub-division, but to co-operation with the adjoining sub-divisions. The particulars of every patrol should be entered in a diary or conference book ; date, hours, places visited, points attended, &c., and the incidents which may have occurred.

This duty to be performed efficiently must be performed silently and without any sign of preparation which could possibly place ill-disposed persons upon their guard.

Patrols should not go out on stated nights or at particular hours, but at irregular periods and at all hours, and should always, when possible, meet near suspected places, and observe suspected houses and persons.

4. Town Beats.—A constable engaged on town duty is responsible for the security of life and property, and the preservation of the peace, and general good order during the time he is on duty. He should make himself acquainted with his beat, streets, courts, and houses. He should possess such a knowledge of the inhabitants as will enable him to recognize them. He should visit, so far as possible, the lanes, courts, and alleys, and when going his rounds at night he should carefully examine all premises and see that the doors and windows are secure

A constable on beat duty should not loiter nor walk about in a slovenly manner. He should not enter any house, except in the execution of his duty, nor should he engage in conversation with anyone except

on matters relating to duty. When answering any questions which may be put to him by strangers or others making enquiries, he should deport himself with the utmost civility and attention.

Fires.—In case of a house taking fire, the policeman detecting it must immediately alarm the occupants, and, if unable otherwise to attract attention, he may break open the doors or windows so as to awaken and save the lives of the inmates. See Chap. VI., para. 2, *post*.

5. Crime Reports—Fairs, Feasts, Inquests, &c.—The scenes of all outrages must be visited without delay, and the facts at once reported.

Fairs, &c.—Constables should report to their superior officers when fairs, feasts, &c., are about to take place in their sub-divisions. Constables should also forward reports (stating whether “occasional licenses” have been granted) regarding flower shows, cricket matches, sports, &c., about to take place in their sub-divisions. When “occasional licenses” have been granted for the sale of intoxicating liquors at auctions, sales, &c., the police should visit the premises to ensure order and prevent any breach of the peace.

Sudden Deaths.—Information should be sent to the coroner in all cases of sudden or accidental death, or death by violence, or under suspicious circumstances. See also “Inquests,” Chap. VI., para. 8, *post*.

6. Highways.—Constables are required to enforce the provisions of the Highway Acts regarding obstructions and nuisances on roads, cattle straying thereon, &c. See “Highway Acts,” Part II., *post*.

Persons making fires or encamping within *fifty* feet of the centre of road commit offences.

When offenders are known they should be summoned, but if unknown they may, under sect. 79 of the Highway Act, 1864 (27 & 28 Vict. c. 101), be *apprehended* by any surveyor, or person acting under his authority, or *any other person witnessing the commission of the offence.*

7. Nuisances.—If a constable believes a nuisance to exist in any place, so as to endanger health, he should give information in writing to the sanitary authority. A constable is not authorized to enter any house or premises, for the purpose of seeking for nuisances, without the consent of a justice.

8. Obstructions.—The constabulary have power to deal with persons wilfully obstructing the thoroughfares in towns or villages. Considerable annoyance is often experienced in villages, particularly on Sundays, by persons committing such offences. Such persons can be summoned by the police. Constables should caution all persons from brawling or making noises in the vicinity of places of worship during Divine service. As to Obstructions and Nuisances in Streets see title “Town Police Clauses Act,” Part II., *post*.

9. Poaching—The duties of the constabulary in preventing poaching are very clearly defined in the Poaching Prevention Act. The Act authorizes a constable, under certain circumstances, to stop and

search persons *on the highway or in any public place*, and the constable can *seize* any game, gun, net, &c., found on such persons. *See* p. 126, *post*.

In carrying out the provisions of the Act a constable should act with discretion, and not risk encountering single-handed a gang of poachers.

10. Petty Sessions and other Courts, &c.—Constables attending petty sessions, or attending at the head quarters of their district or division for pay, or drill, or on any duty, should, unless otherwise ordered, return to their stations as soon as possible on the termination of the duty.

11. The police, when called upon, are bound to assist sheriffs' officers and county court bailiffs, provided they are acting under a proper writ or authority. Under 28 Vict. c. 36, revising barristers are entitled to the services of the constabulary at their courts—as are also the commissioners of fisheries when holding a court under the Salmon Fisheries Act, 1865.

Coroners' Courts.—As to attendance at Coroners' courts, *see* "Inquests," p. 50, *post*.

12. Notices, Billets, &c.—The police are required under the Army Enlistment Act to serve all notices relating to "Reserve Forces" within their district, when desired to do so by the Secretary of State. The police are required to act as billet masters. *See* title "Billeting," *post*.

13. Soldiers, &c.—Police should cultivate friendly relations with military or naval forces stationed in their neighbourhood. *See also p. 47, post.* Police are not to converse with sentries on duty.

14. Assaults, Actions, &c.—Persons are liable to penalties for assaulting the police (45 & 46 Vict. c. 50). Constables are entitled to notice of action brought against them. *See Introduction, p. xi.*

15. Duties under Statutes.—Constables are required to enforce the provisions of various Acts of Parliament:—The Vagrant Act, the Prevention of Crimes Act, the Criminal Law Consolidation Acts, the Licensing Act, the Poaching Prevention Act, the Pedlars' Act, the Chimney Sweepers' Act, the Act for the Prevention of Cruelty to Animals, the Dog Act, &c. They have also certain duties to discharge under the Explosives Act, the Contagious Diseases (Animals) Act, the Army Acts—regarding Billeting of Soldiers, Deserters, &c. ; the Public Health Act, the Gun License Act, the Highway Act, and other Acts of Parliament. Regarding the provisions, &c., of these Acts, *see "General Subjects," Part II., post.*

16. Licensing.—Constables have very important duties to discharge under the Licensing Acts. *See title "Licensing," Part II., post.*

The Licensing Acts of 1872 and 1874 regulate the traffic in intoxicating liquors, and give the police power to supervise the order and conduct of public-houses and licensed premises.

It is their duty to see that such premises are properly conducted and closed during prohibited hours (a).

Power of Entry.—A constable is authorized at all times to enter on “licensed premises” for the purpose of preventing or detecting offences.

Licensed premises are defined as premises in respect of which a license, as defined by sect. 74 of Act of 1872, is granted, and “premises” shall include every room, closet, cellar, yard, stable, outhouse, shed, or any other place whatsoever belonging or in any manner appertaining to such licensed house or place.

Where parties are fighting in a public or beerhouse the police should separate the combatants and quietly endeavour to restore order. Where an affray is going on in a publichouse the police can, if refused admission, break open the doors. Having obtained admission they should endeavour by mild means to suppress any affray, and clear the house, if called on to do so by the landlord.

Removal from Premises.—A constable can, *at the request of the landlord*, remove from any licensed premises any person refusing to leave the same, but he is not required to detain him in custody unless he himself has a charge against him.

A constable can remove from *any premises*, at the request of the owner, any person who has forcibly gained access thereto, or who has gained access

(a) As to “Closing Hours,” see “Licensing,” *post*.

having no right to enter. The constable should first request such person to go out, and unless he does so he should put him out, using no more force than is necessary for the purpose (b).

Harbouring.—Publicans are liable to penalties for harbouring or supplying liquor to any constable when on duty. And they are liable to penalties under the Prevention of Crimes Act for harbouring thieves or allowing stolen goods to be deposited on their premises. They are also liable to penalties for various offences against the Licensing Acts,—permitting drunkenness, gaming, &c. See “Licensing,” p. 109.

Gaming.—Gaming is “playing at any game for money or money’s worth.” A lawful game, if played on licensed premises for money or money’s worth (as for drink, &c.), is thereby rendered unlawful. No game of mere skill is an unlawful game. Skittles, cards, dominoes, chess, draughts, &c., are therefore not unlawful games unless played for money or money’s worth.

Billiards.—Playing at any public billiard table or bagatelle board on Sundays, Christmas Day, or Good Friday is illegal. See “Betting Acts,” Part II., *post*.

Note.—Constables should carefully avoid remaining on licensed premises longer than their duty actually requires them to do, lest complaints should be made against them for frequenting publichouses.

Forcible Entry.—Whoever enters upon any land other than his own in a violent manner commits the offence of “Forcible Entry,” but the statutes relating thereto are considered obsolete.

17. **Drunkenness, &c.**—Under sect. 12 of the Licensing Act, 1872, persons found drunk on any highway or public place, whether a highway or not, or on any licensed premises, can be summoned for drunkenness. This section, however, does not give a constable power to arrest for *simple drunkenness*, and when persons, though drunk, appear capable of taking care of themselves, and are going quietly home, it will be better not to interfere with them at the time (a). The fact should be reported by the constable to his officer, and the person can be subsequently summoned.

When a person is *drunk and incapable* a constable can detain such person until he can proceed with safety to himself, but if so detained he should be summoned in due course for the offence.

Where persons are *drunk and riotous*, or drunk while in charge of any carriage, horse, cattle, or steam-engine on any highway or public place, or drunk whilst in possession of loaded firearms, they can be *apprehended* under sect. 12 of the Licensing Act, 1872. See title "Licensing Acts," Part II. Also title "Town Police Clauses Acts."

Note.—It is no part of the duty of a constable to remonstrate with or censure a person whom he may find drunk. A helplessly drunken person should not

(a) In the metropolitan police district a person found drunk and incapable is, by order of the commissioners, locked up and released when sober on his own recognisances to appear. Magistrates have held that they cannot *compel* "appearance" on such recognizance; the offender should be summoned in the ordinary way.

be placed in a cold cell; excessive drunkenness is a source of danger. As to alcoholic poisoning and antidotes, *see* p. 165, *post*.

Where soldiers are drunk, but not riotous, the police should inform the guard at the military barracks or the regimental patrol, and request that they may be taken in charge. Where soldiers are quarrelling, notice should immediately be sent to the military authorities, the constable remaining on the spot till assistance arrives. The police should at once interfere if life be in danger or civilians concerned. If soldiers are guilty of any direct breach of the law they should be arrested like other offenders.

The railway authorities have power to deal with drunken persons or trespassers on their platforms or premises. The constabulary should interfere if a breach of the peace is likely to occur, and they can take into their charge drunken persons or others handed over to them by the railway authorities. *See* title "Railways," Part II., *post*.

CHAPTER VI.

DUTIES IN SUB-DIVISIONS.

PROTECTION OF LIFE AND PROPERTY.

1. Nearly all offences against life and property are dealt with under the Criminal Law Consolidation Acts. The Act 24 & 25 Vict. c. 100, treats of Offences against the Person; sects. 1 to 16 of the Act relate to murder, attempts to murder, manslaughter, &c. Sects. 17 to 35 deal with acts causing or tending to cause danger to life or bodily harm. Sects. 36 to 43 relate to assaults. *See* p. 120, *post*.

Under the "Larceny Act" (24 & 25 Vict. c. 96) and other statutes, persons guilty of burglary, house-breaking, larceny, and other crimes are punishable by imprisonment and penal servitude, p. 103.

Malicious injury to property of all kinds is punishable under the 24 & 25 Vict. c. 97. The crime of "Arson" is punishable under this Act. Regarding the provisions of these Acts and other special statutes passed for the protection of life and property, *see* p. 115 and 120, *post*.

2. Fires.—On any alarm of fire the constabulary should hasten to the spot and render all the aid in their power—the senior officer present taking command of the party. The first efforts of the police should be to save life where it is in danger; they

should next endeavour to save property. All portable property should be removed from the premises conformably with the wishes and suggestions of the proprietor (*a*).

Every assistance should be afforded to the officers in charge of the fire-engines, and free scope procured for the firemen's exertions ; with this view the officer in charge should keep the ground in the immediate vicinity of the fire clear of all persons not usefully employed, and special attention should be directed to the movements of thieves and pickpockets, who are usually in the crowd on such occasions. *See p. 7.*

The senior officer present should endeavour to ascertain upon the spot all he can relative to the cause of the fire, the circumstances attending it, &c.

3. Railway and other Accidents.—In all cases of railway or other serious accidents the police should immediately proceed to the scene of the disaster, render any aid they can to the injured, and give every assistance in the protection of property, &c.

4. Telegraph Wires.—Any injury done to telegraph wires, by persons throwing stones, &c., should be at once reported with names of offenders.

5. Deserted Children.—If deserted children be found by the constabulary they should be taken to the union. If found by a private person a description of the child should be taken, and the person

To pass through dense smoke, dip a handkerchief in water and tie round head, covering mouth and nostrils. In case of fire from lamp explosion throw sand or flour on blazing oil—never water.

finding it should be directed to the union, and informed that he is accountable for its safe delivery there. *See also* "Children," Part II., *post*.

6. **Suicide.**—To attempt to commit suicide is an indictable misdemeanor at common law. Offenders should be arrested and brought before a magistrate. If necessary a doctor should be called in, and the constabulary should keep a watch upon the movements of the offenders whilst in custody, lest they should again attempt to destroy themselves.

45 & 46 Vict. c. 19, enacts that no suicide (*felo de se*) shall in future be buried in the highway, or with a stake through the body; interment shall take place in the churchyard or burial ground, but without rites of Christian burial.

7. **Dead Bodies.**—It is a misdemeanor at common law to remove a corpse from a grave without lawful authority. It is also a misdemeanor, without lawful authority, to dispose of a dead body for the purposes of dissection and for gain and profit.

48 Geo. 3, c. 75, contains provisions regarding the interment of dead bodies cast ashore by the sea. The Act is extended by 49 Vict. c. 20, to bodies found in any tidal or navigable waters.

INQUESTS.

8. It is the duty of the constabulary, on hearing of any case of sudden death, to enquire into the circumstances immediately, and inform coroner.

The constable is bound to summons a jury on receipt of the coroner's warrant or precept; from twelve to twenty persons may be summoned; they can, if necessary, be summoned from different parishes.

In all cases dead bodies, when found, should be examined and searched, and an inventory taken, in the presence of some person, of the property found on them, which should be produced at the inquest.

Application should be made to the coroner for any expenses the police have been put to in sending for the coroner and summoning the jury.

Regarding the right of a coroner to demand the production at an inquest of a person in the custody of the police, the following is an extract from a letter, from the Home Office, addressed to Dr. Lankester, coroner for Middlesex, dated February 20th, 1868 :—

“ . . . In reply I am to acquaint you that if you refer to the statute (16 & 17 Vict. c. 30, s. 9) quoted in your letter, you will find the Secretary of State has no power to grant an order to bring up a prisoner to be examined as a witness unless application has been made to him on affidavit . . . Mr. Hardy desires me to say that he will be glad if you will point out any authority to show that by common law or statute the Secretary of State or any other authority ever has had power to order prisoners in custody, on any charge, to be brought before a coroner while holding an inquisition, except for the purpose of being examined as witnesses.

“(Signed) A. F. O. LIDDELL.”

CHAPTER VII.

DUTIES IN SUB-DIVISIONS.

PRESERVATION OF PEACE AND PUBLIC ORDER.

1. The police are responsible for the preservation of the peace and public order within their districts. Constables, as conservators of the public peace, are, by virtue of their office, armed with special powers under the common law, and they are required to enforce the provisions of special statutes passed for the maintenance of peace and public order. Regarding the provisions of these statutes, more especially those which relate to riots, assaults, and other breaches of the peace, disorderly houses, obscenity, lunatics, highways, &c., *see* under descriptive titles, Part II., *post*.

2. As to "Breaches of the Peace," *see* p. 13, *ante*.

3. **Affrays.**—An affray is the fighting of two or more persons in some public place, to the terror of the King's subjects, for if the fighting be in private it is not an affray but an assault. It differs from a riot in not being premeditated, and also two persons may be guilty of an affray, but it requires three or more to constitute a riot.

4. **Rioting.**—On the occasion of any sudden riot occurring in a town or village, which the police force on duty at the time may not be strong enough to suppress, and where a forcible interference might be

deemed imprudent, the police should endeavour by their influence with the people to restore order. They should also take notice of those persons who appear to be ringleaders, in order that proceedings may be afterwards instituted against them if necessary.

The statute 1 Geo. 1, stat. 2, chap. 5, contains the proclamation known as "The Riot Act." See title "Riot," *post*, Part II. As to Rioting at elections, see "*Rioting*," p. 55.

5. Prize Fights, &c.—Prize fights are breaches of the peace, which the police are bound, if possible, to prevent; intending combatants should be bound over to keep the peace.

An assembly of persons to witness a prize fight is an unlawful assembly, and persons present and countenancing the fight are guilty of misdemeanor.

By a recent decision of the Court for the Consideration of Crown Cases Reserved it was ruled by a majority of the judges present that simply witnessing a prize fight is not an offence unless the spectators encourage it in some more active way than by their mere presence. A mere exhibition of skill in sparring is not illegal, but where parties meet to injure each other it is a prize fight, whether with gloves or not.

Challenge to Fight a Duel.—At common law it is a misdemeanor to challenge another, either by word or letter, to fight a duel, or to be the messenger of such a challenge, or even barely to provoke another to send such a challenge, or to fight.

6. Races, &c.—The constabulary usually attend races on a requisition from the race committee, who are charged for their services. They should give every assistance to the committee and carry out any special instructions they may receive as to keeping and clearing the course, keeping order, &c.; but as the preservation of the peace is the *first duty* of the constabulary in the event of any disturbance, riot, or fighting, the whole attention of the police must, for the time, be given to the maintenance of public order. A few men should always be employed on detective duty, in plain clothes, at races, for the purpose of detecting thieves, pickpockets, and other offenders.

Regarding Fairs, Feasts, &c., see Chap. V., para. 5.

ELECTIONS.

7. Special directions are usually issued regarding disposition of the force provided, and the route, &c., to be taken by officers and men ordered for duty. In the arrangement of duties, disposition of force, &c., some uniform system, with which officers and men are acquainted, should, as far as practicable, be carried out.

In those towns and villages where rioting is expected and where a large force is placed, the main body of the men should, if practicable, be kept under cover in the police station, a few constables being placed about the streets to keep order and give warning in case of riot. The officer in charge should divide his party into "reliefs," so as to equalize the duty and ensure the men getting rest and refreshment. The "reliefs" could be further sub-divided

into sections of from four to seven men, placing each section under the charge of a sergeant or senior constable. In carrying out this arrangement the men belonging to the same police district, who know each other and are accustomed to work together, should, if practicable, be placed together in the same section. A few men, in plain clothes, should be employed to detect rioters and stone-throwers.

Rioting.—Should rioting commence a contingent of the force at the police-station should be at once brought to the spot. If insufficient to deal with the rioters, additional men should be sent for, till the entire force is engaged. Care should be taken that a sufficient guard be left at the police-station, and such arrangements should be made for the safe keeping and escorting of prisoners, if taken, as will ensure their being conveyed to the police-station without danger of rescue.

The greatest coolness and forbearance is necessary in cases of riot. If the police require to use their staves, they should be careful as to how they strike with them. (*See Chap. V., para. 2.*) When charging a crowd the police should be careful to retain their formation in line, and constables should guard against the danger of becoming detached from their comrades and isolated. Regarding the Proclamation known as “The Riot Act,” see title “Riot,” Part II., *post*.

Polling-stations, &c.—It will be the duty of the police to keep order at the polling-stations and

entrances to the same. They must also render to the sheriff and sub-sheriff what assistance they can.

There is no objection to the police being employed as assistants in protecting the ballot boxes, if necessary, but they should not at any time be in *sole charge* of the boxes.

35 & 36 Vict. c. 33, s. 9, empowers the presiding officer at any polling booth or polling-station *to order into custody* any person who misconducts himself in the polling-station.

6 & 7 Vict. c. 18, s. 87, enacts that persons taken into custody for voting improperly by personation, &c., shall be taken before a justice within a certain time.

CHAPTER VIII.

POLICE ACTS, STATISTICS, RETURNS, &c.

The Police Act of 1839, 2 & 3 Vict. c. 93, provided for the establishment of police forces (a). The Act was amended and extended by Acts passed 1840, 1856, 1857, 1859, and 1865. The Acts of 1840 and 1865 provided for Superannuation of police, but provision for pension is now made, under the Police Act, 1890.

POLICE STATISTICS (b). — Police in Boroughs (Metropolitan excluded) number upwards of 10,000; in Counties, 12,000. The total Force of the Country is 37,957. The cost per man averages £98, or, taking pay alone, £77.

POLICE RETURNS ACT.—Very elaborate returns of crime, &c., are transmitted to the Home Office at the end of each calendar year, in accordance with the Police Returns Act, 1892 (55 & 56 Vict. c. 38). *See* p. 130.

POLICE PROPERTY ACT.—This Act, passed in 1897, enables the Secretary of State to make regulations (dated Feb. 22nd, 1898), as to the disposal of stolen and other property, in the hands of the police. Property, if not perishable, is to be retained for one

(a) As to establishment of Police in Boroughs, previous to 1839, *see* 5 & 6 Will 4, c. 76 (1835). Introduction, p. ix. *ante*.

(b) For “Criminal Statistics,” *see* pp. 81 and 130, *post*.

year, and then sold, and amount credited to the police fund.

POLICE DISABILITIES REMOVAL ACTS, 1887, 1893.
—These Acts remove the disabilities of the police as to voting at Parliamentary, Municipal, and other elections. A constable desiring to vote, must be provided with a form signed by his chief officer, and in the event of a constable likely to be sent on “duty” on occasion, notice as to requirement of form must be given to chief officer seven days previous to day of election.

POLICE ACT, 1890—SUPERANNUATION.

[Police pensions were heretofore granted under the Police Superannuation Act of 1865 : 28 & 29 Vict. c. 35, and other Acts, which are now superseded by the Police Act, 1890, 53 & 54 Vict. c. 45.]

Under the provisions of the Police Act, 1890, constables are entitled to pension after twenty-five years’ approved service (a).

The following are important sections :—

Sect. 1. As to service, age, and incapacity.

Every constable in a police force shall be entitled to a pension for life, without medical certificate, after completion of twenty-five years’ “approved” service (subject—in some cases (b)—to age limit).

(a) The pension thus obtainable amounts to about two-thirds of the pay of the constable, and a proviso in Schedule to Act prohibits an ordinary pension exceeding that sum. “Special” pensions can be higher. See Schedule of Act.

(b) In certain counties and boroughs, an “age limit” (50 to 60 years) exists.

If after fifteen years' service he be incapacitated, he shall be entitled to pension on medical certificate.

If before he has completed fifteen years' service he is incapacitated, a gratuity *may* be granted him.

If at any time he is incapacitated *by injury on duty*, he can receive a special pension.

Sect. 2 of Act provides for pensions and allowances to widows and children.

Sect. 4. As to reckoning of former service in police or public services. *See also* sects. 14 and 30.

"Approved service" shall mean service certified under order of police authority. Deductions may be made from service for misconduct, sickness, &c. (Sect. 20.)

A constable may "remove" from one force to another carrying with him his service (if over three years) subject to sanction of chief officer or police authority (*c*).

Special provisions relate to reckoning of civil service and former service in police force paid by Parliament, &c. (Sect. 14.) *See also* sect. 30 (8).

Sect. 15. "Rateable deductions" (usually 2½ per cent. (*d*)) made from the pay of the police are credited to the superannuation fund, which is further augmented by certain fines, fees, and contributions, enumerated in sects. 16 and 17 of Act. (The Pension Fund is "guaranteed" by rates. Sect 19.)

(*c*) By *Cant v. Lancashire Police Authority* (1898), it appears that the service must be *continuous*.

(*d*) This deduction may sometimes, under special circumstances be returned to a constable leaving a police force without pension. (Sect. 21 of Act.)

The Act of 1890 is not to apply to any existing constable who, before the 1st April, 1891, declined in writing to accept the provisions of the Act. (Sect. 30 (6).) Pensions obtainable by such constables are regulated by 3 & 4 Vict. c. 88, ss. 10, 11. They can receive pension of *half* pay after fifteen, and *two-thirds* pay after twenty years' service, if medically unfit; but the pension is *optional*.

POLICE ACT, 1893.—The Police Act of 1890 is amended by the Police Act, 1893 (56 Vict. c. 10). The Act contains provisions regarding service and pension of "Fire Police," and an important amendment of Sched. I. Part III., 11 (c) of Act, 1890, which is to read as follows:—"Where a constable at the date of his retirement or death holds a rank to which he has been promoted within the three years previous," his annual pay at the date of the retirement or death shall be deemed to be the *average annual amount* of pay received by him for the said three years, instead of the annual amount *actually* received by him at that date.

Police Reservists Act, 1900 (a), provides for the maintenance of families of constables and members of police force whilst serving as Reservists.

[A Home Office Circular (March, 1900) draws attention to the necessity of notifying police promotions in case of Reservists.]

(a) A bill is now (1902) before Parliament to ensure that the period of service as reservist may count towards pension.

CHAPTER IX.

LEGAL PRINCIPLES, TERMS, &c.

The law of England is divided into two kinds,—the Common Law and the Statute Law.

The *Common Law* includes the general customs of the common law properly so called, also the particular customs of certain parts of the kingdom.

The *Statute Law* is made by Act of Parliament. Penal statutes are those which impose penalties or punishments for an offence committed. Penalties differ from punishments in the fact that they are enforced at the discretion and for the benefit of the informer.

Ignorance of the law is no excuse for breaking it, as every one is supposed to know the law.

The law presumes a man to be innocent until the contrary is proved.

Infants.—An *infant* in law is a person under the age of twenty-one. Under the age of seven years an infant cannot be guilty of felony; above seven and under fourteen, if it appear to the court and jury that an infant could discern between good and evil, he may be convicted. After fourteen an infant is accountable.

Homicide.—All cases of *homicide* are presumed by law to be malicious and amounting to murder until the contrary appears (b).

(b) A sane man is supposed to contemplate the natural consequences of his own acts.

There are three kinds of homicide—(1.) Justifiable. (2.) Excusable. (3.) Felonious.

Felonious homicide is of two kinds—murder and manslaughter. *See* title “Murder,” p. 118, *post*.

In cases of homicide death must ensue within a year and a day of the time the injury was inflicted.

Informations, &c.—An *information* in writing and on oath must be made before a magistrate before a warrant to arrest or search can be obtained.

A *deposition* is an “information” in writing, taken in the presence and hearing of the accused. It can be read in evidence in the event of the death of deponent. *See* p. 27, *ante*.

An *indictment* is a written accusation of one or more persons of a crime preferred to and presented on oath by a Grand Jury. The accusation is called a “Bill” when presented to, and an “Indictment” when found, by the Grand Jury.

A *Recognizance* at common law is an obligation, duly acknowledged, to do a certain thing stipulated. When persons under a rule of bail to keep the peace, or be of good behaviour, commit a breach of such conditions, the recognizance can be “estreated.”

Blasphemy.—To publish blasphemous, immodest or immoral matter is an offence indictable as a misdemeanor. It is also a misdemeanor to degrade or calumniate the Sovereign, the administrators of government, or administration of justice by judges.

High treason.—The 25 Edw. 3, c. 3, deals with the crime of treason. This Act has been extended by

the 35 Geo. 3, c. 7, and the 11 & 12 Vict. c. 12. By 5 & 6 Vict. c. 51, s. 2, it is a *high misdemeanor* to discharge any gun, &c., or to throw at or near the person of the King any substance, &c. It is *treasonable felony* (11 Vict. c. 12) to attempt to depose, &c., or to levy war, &c., against the Sovereign.

“Misprision,” of Treason. See p. 79.

Treasure trove, or treasure found, is where any money or coin, gold, silver, plate, or bullion is found *hidden* in the earth or other private place, the owner thereof being unknown, in which case the treasure belongs to the King, the finder receiving the full bullion value from the Lords Commissioners of the Treasury.

Privileged documents. — “The official transactions between the heads of the departments of Government and their subordinate officers are in general regarded as confidential and privileged matters which the interests of the State will not permit to be revealed.” (“Taylor on Evidence.”)

Privileged communications. — A communication fairly made by a person in the discharge of some public or private duty, whether legal or moral, or in the conduct of his own affairs in matters where his interest is concerned, is a “privileged communication.”

FLASH LANGUAGE, ETC.

A peculiar kind of flash or cant language is in use amongst thieves and beggars. The following is an

extract from a specimen letter given in "Snowden's (a) Police Officers' Guide," which contains a vocabulary of the language :—

DEAR DICK,

I have seen the Fence, who christened the yacks quick. I gave him a double finnip. I have got the yacks, so do not come it. Fight cocum. I am at the old padding ken next door to the padding crib. Now on the square. Mum.

Translation :—

Dear Richard,—I have seen the person who bought the watches, and he altered the name in them immediately. I gave him a tenpound note for doing it. I have got the watches back again, so do not turn informer. Be wary and sly. I am stopping at the old lodging-house next door to the boys' lodging-house. I am honest now. Say nothing.

"Fence" is a term applied to "Receivers,"—to "christen" a watch is to alter the maker's name and number,—arrest by telegraphic message is referred to as "struck by lightning."

Swindling tricks, &c.—"Ring dropping," "confidence tricks," "ringing the changes," &c., are terms applied to various methods of swindling,—the latter is practised by rogues when giving and taking change.

"Long firm" frauds are practised by gangs of persons who, by giving fictitious addresses and references, impose upon merchants and farmers, from whom they obtain consignments of goods which are never paid for and are at once disposed of.

(a) Published by Shaw & Sons, Fetter Lane, E.C., price 10s. 6d.. cash 8s. 11d.

PART II.

GENERAL SUBJECTS. DIGEST OF STATUTES.

Accessories and Abettors.—(24 & 25 Vict. c. 94.)
An accessory *before* the fact is one who being absent at the time of the commission of the felony, yet procures, counsels, or commands another to commit a crime.

An accessory *after* the fact.—Any person (except a married woman succouring her husband), who knowing a felony to have been committed, receives, relieves, comforts, or assists the felon.

The evidence of an accomplice (accessory before the fact) in a criminal case is admissible under certain circumstances.

Abettors in misdemeanors.—In misdemeanors there can be no accessories, all parties concerned being considered as principals. A principal in the *first degree* is the actual perpetrator of the crime; in the *second degree*, one who is present, acting and assisting with a felonious intent. Accessories before the fact can be punished as principals; as to “Receivers” *see* title “Larceny” p. 107, *post*.

Agricultural Gangs.—The Act 30 & 31 Vict. c. 130, regulates the employment by gang-masters of children, young persons, and women in agricultural gangs. Gang-masters must be licensed. The license is in force for six months. Children under 8 years cannot be employed.

[Note that under the Elementary Education Acts no child can be taken into employment under the age of 12, nor above 12 and under 14, without a school certificate, but there are certain exceptions in the case of children to be employed in agriculture, *see* 62 & 63 Vict. c. 13.]

Females shall not be employed in the same gang as males. When females are employed a female must be licensed to act as gang-master. The police should report any infringement of Act. They are not entitled to demand the production of license, &c.

Animals—Diseases of—Act, 1894 (57 & 58 Vict. c. 57), consolidates and repeals all former Acts on the subject, and gives to the Board of Agriculture very extensive powers. Owners of animals affected with contagious disease are required to at once give notice to the police of the existence of the disease. The police should visit the premises and at once report the case to the proper authorities.

When the local authority have prohibited the removal of animals within the district without a license, a constable may require the production of the license for removal. The police are authorized to prevent removal of any cattle, carcase, fodder, &c., out of any "infected place," and to inspect cattle trucks on railways.—Sect. 23 of Act regulates transit of cattle, &c.; the exposure to cold in transit of sheep recently shorn is an offence, *see* p. 81.

Where a person is found committing an offence, a constable may stop and detain him, and, if unknown, apprehend him.

As to mad dogs, *see* title "Dogs," *post*.

Apprentices.—(38 & 39 Vict. c. 86, s. 6.) Masters who are legally liable to provide for their apprentices necessary food and clothing, medical aid, or lodging, are liable to penalties in cases where they neglect to provide the same, whereby the health of the apprentice is or is likely to be seriously or permanently injured. Similar offences or causing bodily harm to any apprentice are misdemeanors under 24 & 25 Vict. c. 100, s. 26. A master may give an apprentice moderate chastisement. A dispute as to wages will not justify leaving employment.

The Army Act, 1881 (44 & 45 Vict. c. 58).—This Act is renewed annually. The provisions which principally concern the police are those relating to billeting (*see* p. 72) and deserters (*see* p. 83).

It is an offence for any person to buy or receive from a soldier any military clothing, equipment, or decoration. (Sect. 156.)

No officer or soldier is exempt from being proceeded against by the ordinary course of law, except for an offence declared not to be a crime under sect. 162 of Act.

Regarding service of bastardy summons on soldiers, *see* p. 37. As to soldiers disturbing peace, arrest of soldiers, etc., *see* p. 47, *ante*.

Arrest.—As to general powers, *see* Chap. II., p. 11, *ante*; as to arrest in cases of drunkenness, *see* p. 47. The Larceny Act, s. 104, authorizes arrest on suspicion of person found loitering with intent to commit

felony. A constable can always arrest on reasonable suspicion. Knowledge that a warrant for felony had been issued, was held to be a sufficient ground for 'reasonable suspicion' (*Hogg v. Ward*, 27 L. J. Exch. 441). As to telegraphic message being justification for arrest, *see* 33 J. P. 273.

Under certain statutes, persons "found committing" offences can be arrested, but they must be so "found," and then and there apprehended (*a*).

Arsenic, sale of.—(14 & 15 Vict. c. 13.) Arsenic can only be sold by chemists, druggists, or pharmacists, registered under the Pharmacy Act. Such persons are obliged to keep books, and enter therein the name and place of abode of purchasers, the quantity sold, &c.

Arsenic cannot be sold to persons under age, or to persons unknown to the seller. Sect. 3 of the Act contains provisions regarding the quantity which may be sold as an admixture of soot with arsenic. Penalty, for contravention of Act, £20.

Assault.—For statutory provisions, *see* title "Offences against Person Act," p. 121, *post*.

"Wounding," (*b*) and the infliction of "grievous bodily harm," are treated of under sects. 11, 12, and 20 of Act.

(*a*) An arrest for assault after interval of two hours, without continued pursuit, was not justifiable. *R. v. Walker*, 23 L. J. 123 and 31 J. P. 1.

(*b*) If the skin be not broken, there is no "wounding," but there may be "grievous bodily harm."

As to assaults on police, *see* p. xi., *ante*; as to assaults on women and children, *see* title "Women and Girls," p. 157; *also* "Married Women," p. 116.

Bakehouses.—The Acts 41 Vict. c. 16, and 46 & 47 Vict. c. 53, contain provisions relating to the cleanliness, ventilation, and sanitary condition of bakehouses in places containing 5,000 inhabitants.

Barbed Wire Act, 1893.—56 & 57 Vict. c. 32, enables local authorities to order removal of wire if "a nuisance to highway."

Bastardy.—Police are required to serve summonses and execute warrants. *See* p. 36, *ante*; as to Soldiers, *see* p. 37.

The mother of a child can apply for summons within twelve months after birth of child, or before birth, or at any time after birth if putative father has paid for maintenance of child or, in case of absence from country, within twelve months after return.

Betting Acts.—The Betting House Act, 1853 (16 & 17 Vict. c. 119), amended by the Betting Act, 1874, prohibits any house, office, room, or other "place" being kept for the purpose of betting, &c., between persons resorting thereto (*c*), and any house so used shall be deemed to be a "common gaming house"

(*c*) The "resorting" to a house for the purpose of betting, must be actual and physical; sending letters and telegrams is not "resorting" thereto.

within the meaning of 8 & 9 Vict. c. 109. (Gaming Act, 1845.) By section 7 of Act it is an offence to exhibit placards or advertise betting houses.

The Betting Act of 1874 (37 & 38 Vict. c. 15) is to be construed as one with the Betting House Act, 1853, and further offences regarding advertising, &c., are treated of under this Act.

A number of test cases have been before the courts under the Betting Acts, and a definition has been sought as to the meaning of the term "place" in Act of 1853 (*a*).

Under the Betting and Loans (Infants) Act, 1892, it is a misdemeanor to send to persons under age documents inciting to bet, or circulars inviting them to borrow money (*b*).

GAMING.—(8 & 9 Vict. c. 109, and 17 & 18 Vict. c. 38.) The Gaming Act, 1845, 8 & 9 Vict. c. 109, prohibits any house being used as a "gaming house," viz., for the purpose of "gaming." Penalty on person keeping such house, £100.

Persons *cheating at gaming* can be punished as obtaining money by false pretences. (Sect. 17.)

(*a*) The decision in the case of *Hawke v. Dunn*, which was favourable to the contentions of the Anti-Gambling League, was overruled by Court of Appeal in *Powell v. Kempton Park Race Course Company*.

While the law does not sanction betting, it nowhere declares it to be criminal; all it does is to condemn betting as carried on under certain specified conditions (*per Russell, L.C.J.*); *R. v. Brown* (1894), L. R. 1 Q. B. 119; 59 J. P. 485.

(*b*) As to "Money Lenders," *see* p. 118.

Billiards. — Billiard and bagatelle licenses are granted under this Act. (Sect. 10.)

The Gaming Act, 1892, 55 Vict. c. 9, amends 8 & 9 Vict. c. 109, as to the validity of contracts.

ROULETTE. — Any person keeping any place for playing at roulette (*c*), or at any game with cards or dice, prohibited by law, is liable to a penalty of £50.

Under the Licensing Act, 1872 (sect. 17), publicans and beer retailers are liable to penalties for permitting “gaming or any unlawful game” to be carried on on their premises (*d*). See title “Licensing,” p. 109, *post*.

Persons playing at any pretended game of chance, in any street, highway, or public place, can be dealt with as rogues and vagabonds. See title “Vagrants,” p. 151, *post*.

WELSHING. — “Welshing” was declared felony in the *Queen v. Buckmaster*, 20 Q.B.D. 182. The court held that there was no contract by which the *property* in the money could pass—there was evidence of “larceny by trick.” See title “Larceny,” p. 104.

Bicycles. — Bicycles and tricycles are deemed to be carriages; there shall be attached thereto a lighted lamp between (*e*) one hour after sunset and one hour

(*c*) In *Jenks v. Turpin* (“The Park Club Case”), *Hawkins, J.*, alludes to roulette as an unlawful game (13 Q.B.D. 505).

(*d*) A publican is liable if he permits gaming by *private friends* on licensed premises. *Osborne v. Hare*, 40 J. P. 759.

(*e*) As to non-liability of cyclists to *arrest* for offence (unlighted lamp), see *Hatton v. Treesby*, 61 J. P. 586.

before sunrise. Warning of the approach of such carriage is to be given by sounding a bell or whistle (Local Government Act, 1888, 51 & 52 Vict. c. 41, s. 85). The power of local authorities to make bye-laws is repealed.

Bigamy.—Whoever being married shall marry any other person during the lifetime of the former husband or wife, etc., may be indicted for felony. (24 & 25 Vict. c. 100, s. 57.)

Bona fide belief in the death of husband or wife before the second marriage, is a good defence, notwithstanding that seven years have not expired. The first wife is not a competent witness, but the second is. A warrant should, as a rule, be obtained before arresting.

Billeting.—Under section 103 of the Army Act, 1881 (44 & 45 Vict. c. 58), the constabulary are required to act as billet masters when so called upon by the military authorities.

Officers and soldiers are to be billeted in a fair proportion on the occupiers of *victualling houses*, viz., hotel keepers, publicans, beerhouse keepers on premises, and sellers of wines and spirits by retail—due regard to be paid to the accommodation each house can afford. (Sect. 104 of Act.) The commanding officer may, where practicable, require that not less than two men shall be billeted in one house. The men's names need not be inserted in billets.

Militia, on line of march, are entitled to billets.

Lists should be kept at police stations of all houses *within a mile* of station where billets can be had, and when billeting care must be taken that billets be made *out to the less distant victualling houses* if suitable before billets be made out for those more distant.

Offences.—As to offences by Police, Victuallers, and Soldiers, *see* Army Act, 1881, sects. 109, 110, 111 respectively. As to “payments” (*a*), *see* sect. 106.

Schedule.—Under the Army (Annual) Act, 1892, a soldier can, if he desires it, require that a breakfast of bread and tea at $1\frac{1}{2}d.$ be supplied him in addition to the hot meal at $1s. 3\frac{1}{2}d.$ to which he is entitled. (Sect. 6 and Schedule.)

Billiards.—*See* pp. 45, 71, *ante*, and p. 111, *post*.

Birds.—Wild Birds Protection Act, 1880.—(43 & 44 Vict. c. 35.) Any person who shall, between the 1st of March and 1st of August in any year, shoot or attempt to shoot or use any boat for the purpose of shooting, &c., *any wild bird*, or shall use any lime, trap, snare, net, &c., for the purpose of taking any wild bird, or shall expose, offer for sale or have in possession after the *fifteenth day of March* any wild bird recently killed or taken shall be liable to a penalty of £1 in the case of *any wild bird included in the schedule* annexed to Act.

In the case of *any other wild bird*, the offender shall for the first offence be reprimanded and discharged on payment of costs, and for any subsequent offence, forfeit and pay a sum of money not exceeding

(*a*) In case of failure to pay, disturbance, or ill-usage, application can be made to Secretary of State. (Sect. 119.)

5s., unless it be proved that the bird was killed or taken, &c., during the period in which it could be legally killed or taken, &c., or was received from some person residing out of the United Kingdom.

Exemption.—This prohibition does not apply to the owner or occupier of any land, or to any person authorized by the owner or occupier killing or taking on such land wild birds not included in schedule.

Note.—Taking young birds from a nest is not within the statute, but offenders may often be dealt with for having such birds in possession. Taking eggs in specified areas is an offence by Act of 1894 (a).

SCHEDULE.—The schedule to the Act includes the chough, cuckoo, curlew, diver, dotterel, dunbird, dunlin, gannet, goatsucker, godwit, goldfinch, grebe, guillemot, gull (except black backed gull), kingfisher, kittiwake, lapwing, lark, mallard, nightingale, nightjar, oyster catcher, owl, peewit, plover, puffin, razor bill, red shank, reeve or ruff, sandpiper, sea-swallow, shearwater, shelldrake, snipe, stint, teal, tern, tystey, widgeon, wild duck, woodcock, woodpecker.

44 & 45 Vict. c. 51, explains certain provisions of the principal Act, and exempts from conviction persons found in possession of wild birds recently killed who satisfy the court that the killing of such wild bird was lawful, or that the wild bird was killed in some place to which the Act does not extend.

Larks are included as “protected birds,” and a special Act protects sand-grouse.

(a) The Secretary of State, may, on application, prohibit the taking of eggs in any specified area. (Sect. 3.)

The Act has been further amended^(b) by the Wild Birds Protection Act, 1896.

Local Authority.—The County Council is the “Local Authority” for execution of Acts in counties.

Brawling.—See p. 86.

Bread Act (6 & 7 Will. 4, c. 37).—Bakers and sellers of bread are liable to penalties for selling bread, other than French or fancy bread or rolls, in any other manner than by weight—such weight to be avoirdupois weight—or for not keeping proper beams and scales with proper weights or other sufficient balance in shop, or for using incorrect or false beam or scales or balance or any false weight. Sect. 7 of the Act provides for the sale or delivery of bread from cart^(c), bakers or their servants being required to have with them a correct beam and scales with proper weights or other sufficient balance, in order that all bread purchased may be weighed in the presence of the purchaser, if requested so to do by or on behalf of the purchaser.

Proceedings must be taken within *forty-eight* hours after the offence, exclusive of an intervening Sunday, or within such reasonable time as to the justice granting summons may seem fit.

Sects. 10 and 11 of Act refer to adulteration of flour (bread made with admixture to be marked M) and issue of search warrant by justice.

Bribery.—The bribing or attempting to bribe a public officer is a misdemeanor.

^(b) The Secretary of State may extend or vary “close” time.

^(c) This does not apply to delivery from basket.

Children, Protection of.—The Prevention of Cruelty to and Protection of Children Act, 1889, and the Amendment Act of 1894, are repealed by sect. 28 of 57 & 58 Vict. c. 41 (1894). The Act of 1894 is a consolidated re-enactment of original Act.

Any person (over 16) having the control of any child under 16 who wilfully ill-treats, &c., such child so as to cause it unnecessary suffering or injury to health, shall be guilty of a misdemeanor, and liable to imprisonment and to a fine of 100*l.* (Sect. 1.)

Sect. 2 places restrictions on the employment of children singing and playing, &c., for profit in streets, licensed premises, public entertainments, &c. Any constable may take to a place of safety any child in respect of whom an offence under sect. 1 or subsect. (A), sect. 2 of Act has been committed.

Arrest may be made on view of offences if person be unknown to constable. Persons arrested shall, when practicable, be released on bail, if safety of child be not endangered. (Sect. 4.)

CHILDREN'S DANGEROUS PERFORMANCE ACT (42 & 43 Vict. c. 34).—This Act prohibits the employment of children under fourteen years of age (*a*) in dangerous performances whereby in the opinion of a court of summary jurisdiction the life or limb of any such child shall be endangered, and prescribes certain penalties and compensation for accident to any child. Respecting proof of age of child, *see* sect. 4.

(*a*) By 60 & 61 Vict. c. 52, the age is extended to 16 for males, and for females to 18 years.

CUSTODY OF CHILDREN ACT, 1891, empowers court to refuse to make order to deliver a child to its parent unless satisfied that he is a fit person to have custody of child.

ITALIAN CHILDREN.—Police are required (H.O. Circ. 1877), to co-operate in the efforts made to suppress the traffic in Italian children, imported by persons known as “Padroni,” for purposes of gain by begging, &c.

As to Sale of Liquor to Children, *see* p. 139.

INFANTS—as to capacity, *see* p. 61 ; as to Protection of, *see* p. 102 ; as to Deserted Children, *see* p. 49, *ante*.

Abandoning Child—Stealing Child, *see* p. 120 ; as to “Defilement,” *see* p. 157.

Whipping Children, *see* pp. 141, 156 ; *see* also title “Youthful Offenders,” *post*.

Chimney Sweepers Acts (3 & 4 Vict. c. 85 (1840); 27 & 28 Vict. c. 37 (1864); 38 & 39 Vict. c. 70 (1875)).—Police are required to enforce Acts.

It is criminal for any person to compel or allow anyone (under twenty-one years) to ascend or descend a chimney or enter a flue. The Act of 1864 (sect. 6) prohibits any chimney sweeper employing any child under 10 years of age in his business elsewhere than on his premises, nor is he (sect. 7) to take with him into any building for the purposes of his trade any person in his employ under 16 years of age. Punishable by fine or imprisonment.

The Act of 1875 requires that “every person carrying on the business of a chimney sweeper, and who employs any journeyman, assistant, or apprentice

shall take out a certificate, issued by chief officer of police, fee 2s. 6d. Certificates remain in force for one year, and require to be endorsed if used in districts other than the one for which issued.

CHIMNEY SWEEPERS ACT, 1894. — Prohibits chimney sweepers knocking at doors, ringing bells, or using noisy instruments, for the purpose of soliciting employment.

Cleansing of Persons Act, 1897 (60 & 61 Vict. c. 31).—Local authorities can provide cleansing and disinfection for persons infested with vermin.

Coin.—The “Coinage Act,” (24 & 25 Vict: c. 99), deals with offences against the coinage. *See also* p. 7, *ante*.

Any person found committing an indictable offence may be apprehended. (Sect. 31.)

Uttering.—To knowingly tender or utter counterfeit gold or silver coin is a Misdemeanor, as is also uttering and having in possession at same time similar coin (*a*), or having in possession three or more pieces of counterfeit coin (*b*) with intent to utter, or the uttering, with intent to defraud, of any *spurious coin*, viz:, foreign coin, medals, etc.

A second offence of uttering after previous conviction is *Felony*. (Sect. 12.)

Defacing Coin.—It is an offence to stamp any names or words on coins; the tendering of coin

(*a*) Or within ten days uttering another such piece. (Sect. 10.)

(*b*) The fact that counterfeit coins were found in a prisoner's pocket separately wrapped up, was held to be evidence of guilty knowledge. *R. v. Jarvis*, 25 L. J. 30.

so defaced is punishable on summary conviction (Attorney-General permitting). (Sect. 17.)

Common Lodging Houses are houses (*c*) registered by the local authority, in which persons of the poorer classes are received for short periods, inhabiting one common room; if beggars and vagrants are received, special rules apply.

Compounding Offences.—Though the bare taking again (without favour to thief) of a man's goods which have been stolen is no offence, yet where a man takes back goods or receives amends on condition of not prosecuting, it is a misdemeanor (30 J.P. 514).

Any person who enters into an agreement not to prosecute a felony is guilty of the offence of "compounding a felony." See "Restitution," *post*.

Misprision of felony. A man who, knowing a felony to have been committed—he being no party to it—conceals it, is guilty of misprision of felony. The term is also applied to concealment of treason.

Concealment of Birth.—24 & 25 Vict., c. 100, s. 60. If any woman shall be delivered of a child, every person who shall by any secret disposition of the dead body of the said child, whether such child died before or after its birth, endeavour to conceal (*d*) the birth thereof shall be guilty of a misdemeanor. See p. 7, *ante*.

(*c*) A definition of the term "common lodging house" is given in the Public Health Act. (Sect. 79.)

(*d*) An endeavour to conceal the birth by leaving the child alive in a field where it dies from exposure, is not covered by the section which relates to a "secret disposition" of the body. *R. v. May*, 31 J.P. 356.

The concealment must be from a desire to keep the world at large in ignorance of the birth, and not from a desire to escape individual anger. *R. v. Morris*, 3 Cox, 489.

Conspiracy is where two or more persons combine together to execute some unlawful act for the purpose of injury to the third person or the public. The offence is a misdemeanor.

Convicts.—Convicts can obtain remission of part of sentence by good behaviour in prison. *See* title “Penal Servitude Act,” p. 124, *post*.

Convicts released on license and Supervisees are required to report themselves to police within forty-eight hours of their arrival within police district. *See* title “Prevention of Crimes Act,” p. 131; *also* title “Penal Servitude,” p. 124. They have also to report any change of residence within district and give notice of intended removal out of district. Males are bound to report themselves once a month personally or in writing.

Persons thus situated should not be subject to annoyance, nor should their antecedents be made known.

A constable can take into custody any licensee or person under police supervision whom he may suspect of having committed any offence, or broken any of the conditions of his license (*a*). Care should be taken not to confound the discharges of convicts *absolutely* liberated with those of convicts on license.

(*a*) *Conditions.* (1) License must be produced when required by justice or police officer; (2) licensee must abstain from violation of law; (3) must not associate with persons of bad character; nor (4) lead idle or dissolute life without visible means of subsistence.

CRIMINAL STATISTICS.—Returns of crime dealing in detail with habitual criminals and other persons prosecuted by and known to the police are transmitted annually to the Home Office consolidated, and laid before Parliament (Act of 1892). Similar information is forwarded by the prison authorities as to the number of persons incarcerated in local prisons, convict prisons and reformatories. *See also* p. 57 and p. 130.

Criminal Evidence Act.—*See* p. 27.

Criminal Law Amendment Act.—*See* “Women and Girls,” p. 157.

Criminal Law Consolidation Acts.—In 1861 six Acts were passed by which the criminal law was consolidated and amended. 24 & 25 Vict. Chapters 94, 96, 97, 98, 99 & 100.

Chap. 94 treats of “Accessories.” *See* p. 65, *ante*.

Chap. 96 deals with Larceny, &c. *See* title “Larceny,” *post*.

Chap. 97 deals with “Malicious Damage.” *See* title, “Malicious Damage Act,” *post*.

Chap. 98, with “Forgery.” *See* title, *post*.

Chap. 99, “The Coinage Act.” *See* p. 78, *ante*.

Chap. 100 deals with “Offences against the Person.” *See* p. 120, *post*.

Cruelty to Animals, Prevention of.—(12 & 13 Vict. c. 92.) An offender against the Act is defined in sect. 2 of Act as any person who shall “cruelly” beat, ill-treat, overdrive, abuse, or torture (*b*), or cause

(*b*) The “dishorning” of cattle is illegal (*Ford v. Wiley*, 53 J.P. 485), but the “dubbing” of cocks is permissible (*Murphy v. Manning*, 41 J. P. 30).

or procure to be cruelly beaten, &c., any animal. By sect. 29 "animal" is defined as any horse, mare, gelding, bull, ox, cow, heifer, steer, calf, mule, ass, sheep, lamb, hog, pig, sow, goat, dog, cat, or any other domestic animal—the section seems to apply to any domestic animal as distinguished from a wild one. Prosecutions can be maintained for cruelty to cocks, hens, ducks, &c., and decoy birds kept in a state of captivity. As to "Dogs," *see* p. 87. As to "Wild Animals in Captivity," *see* title, *post*.

Baiting.—The keeping or using of any room or place for baiting or fighting animals, is illegal (*a*).

Arrest.—A constable may (sect. 13) *arrest without warrant* upon view of offence under certain circumstances, or upon the complaint or information of any person who shall declare his or her name and place of abode to the constable, but procedure should be by summons when the offender is known (*b*).

THE INJURED ANIMALS ACT, 1894, empowers police on order of veterinary surgeon to slaughter injured animal where it is cruel to keep it alive, even if owner dissent—expenses are recoverable.

SLAUGHTERING HORSES—Knackers' yards have to be registered (26 Geo 3, c. 71). The hair is to be at

(*a*) Coursing rabbits with dogs in an enclosure from which they cannot escape is not "baiting."

(*b*) *Impounding.* Police can take charge of vehicle or animal of person in custody. (Sect. 19.) 17 & 18 Vict. c. 60, provides for recovery of costs of keep (also for sale) of animal impounded.

once cut from the neck of animals sent for slaughter. Penalties attach to using animals so sent. They must be killed within three days, being supplied, meantime, with food and water (*c*) (12 & 13 Vict. c. 92).

VIVISECTION.—39 & 40 Vict. c. 77, places restrictions upon the performing of painful experiments on living animals for scientific purposes (*d*).

Customs.—*See* title “Smuggling,” p. 139, *post*.

Debtors Act, 1869 (32 & 33 Vict. c. 62), abolished imprisonment for debt except in default of obedience to an order of court, and it provided for the punishment of fraudulent bankrupts. A debtor commits a criminal offence and is termed a “fraudulent debtor,” if with intent to defraud his creditors he commits certain acts which are indictable as misdemeanors and enumerated in sects. 11 and 12 of the Debtors Act, 1869, and sect. 61 of the Bankruptcy Act, 1883. A debtor “absconding” with property to the value of 20*l.* commits a felony.

Deserters and Military Offenders(*e*).—Under sect. 154 of the Army Act, 1881 (44 & 45 Vict. c. 58), it is lawful for any constable to apprehend and bring before a magistrate any person whom he may reasonably suspect to be a deserter. A constable

(*c*) Horses sent to kennels for slaughter (for hounds) come within section.

(*d*) Experiments are permitted—with certificate—on dog, cat, horse, &c. An Amendment Bill imposing “General Restrictions” is now (1902) before Parliament.

(*e*) *See* H.O. Circ., 10-8-01, *re* disparity of per centage of apprehensions in certain localities.

should, however, before apprehending a man as a deserter, ascertain whether notice of the desertion appears in the "Police Gazette," or he should hold a written authority from the colonel or adjutant of the regiment to which the man belongs authorizing his arrest. Communications received from non-commissioned officers regarding men supposed to be deserters should not be acted on by sergeants or constables without the authority of their superior officers.

Rewards are given for the apprehension of deserters. Application, on forms signed by justices, should be made to the War Office *at the time the deserter is committed*. Orders will be given by the War Department for the repayment of the necessary expenses incurred in the apprehension and conveyance of the deserter. A detailed statement of expenses, certified by the committing magistrate, must in all cases be forwarded, the statement to specify the person to whom the expenses are repayable.

Military Offenders.—In apprehending soldiers for civil offences in cases where they have to be taken from their barracks or when on duty, notice should be first given to the commanding officer.

Militia Absentees.—Where an absentee or deserter from the militia has been arrested by the constabulary, notice should be sent to the adjutant of the regiment of the time and place at which the man is to be brought before the magistrates for trial.

Pretended Deserter.—Any person falsely representing himself to be a deserter, is liable, on conviction, to three months' imprisonment. (Sect. 152.)

Destructive Insects Act, 1877.—This Act was passed in 1877 to prevent the spread in Great Britain of the Colorado beetle.

Disorderly Houses.—(25 Geo. 2, c. 36.) Any person keeping a bawdy house, gaming, or other disorderly house is guilty of a misdemeanor. Any person acting as master or mistress of house will be deemed the owner (*a*).

In order to encourage prosecutions against persons keeping such houses, it is by sect. 5 of the Act enacted that if any two inhabitants of any parish or place (being ratepayers) give notice in writing to a constable of any person keeping any such house, the constable shall forthwith go with such inhabitants to a justice of the peace, and on their making oath before such justice that they do believe the contents of such notice to be true, and on entering into a recognizance to give or produce material evidence, the constable shall enter into a recognizance to prosecute. By sect. 6 of the Act it is enacted that when such recognizance to prosecute is entered into the justice may issue a warrant against accused.

The suppression of brothels is specially dealt with under Criminal Law Amendment Act, 1885. See title "Women and Girls," p. 157, *post*.

As to harbouring prostitutes on premises, see "Licensing," p. 109, note (*d*), *post*.

(*a*) The owner of a house let in apartments to persons who use the house for immoral purposes, cannot be indicted for keeping a disorderly house. *R. v. Stannard*, 33 L. J. 61, and *R. v. Barrett*, 32 L. J. 36.

Disturbing Congregation (Brawling).—It is an offence to be guilty of riotous or indecent behaviour in any cathedral, church, or chapel (23 & 24 Vict. c. 32). Offenders may be apprehended by constable or churchwarden. (Penalty £20.)

Dogs.—Dog stealing is not felony at common law, but is punishable (Larceny Act, s. 18) by fine or imprisonment. A second offence is a misdemeanor.

Under the Dogs Act, 1871 (34 & 35 Vict. c. 56), the constabulary can take possession of any savage (a) or dangerous dog found straying in any highway (b). The Act provides for disposal of dog.

Mad dogs.—By sect. 3, local authorities or justices may, if a mad or suspected dog be found within jurisdiction, make orders placing restrictions on dogs not under control.

Rabies.—The Rabies Order, 1897, revokes Order of 1895. Local authorities required to enforce order.

Muzzling.—The Board of Agriculture are empowered to make orders for the muzzling and control of dogs.

(a) (*Scientia*).—If, without negligence, in keeping a dog, a dog bites a person, the dog's owner is not liable in damages unless it can be shown that owner knew the dog was of a fierce nature "accustomed to bite mankind." As to injuries to cattle and sheep by dogs, see 28 & 29 Vict. c. 60. ss. 1 and 2.

As to dangerous dogs in towns, see title "Town Police Clauses Act," *post*.

Cruelty to Dogs.—Cruelty is punishable by statute (*d*) 12 & 13 Vict. c. 92. See p. 81, *ante*. As to vivisection, see p. 83. No dog can be used to draw any cart or barrow on highway (17 & 18 Vict. c. 60, s. 2).

DOG LICENSES.—(30 & 31 Vict. c. 5, and 41 Vict. c. 15.) No person is allowed to keep a dog (above the age of six months) without having a license, or to keep a greater number of dogs than he is licensed to keep. And power is given to the police by the Customs and Inland Revenue Act, 1878 (41 Vict. c. 15, s. 23), to take proceedings against such persons. (Half penalty goes to police superannuation). The Excise usually prosecute on police information.

Dog licenses expire on the 31st December in each year, and have to be renewed in the month of January following.

The taking out of a license *after the offence is discovered* does not get rid of the offence.

Exemptions.—Certain dogs are exempted from taxation:—hounds under the age of twelve months, dogs kept by blind persons, and shepherd dogs. In the case of shepherd dogs the owner is obliged to make a declaration stating number of dogs kept.

CARRIERS' DOGS.—Carriers are bound to keep fastened to their carts dogs "attending" them on road (4 Geo. 4, c. 95, s. 76).

(*d*) Setting dogs to fight, if they injure one another, comes within the statute (*Budge v. Parsons*, 27 J. P. 231), as also the cutting of dogs ears and tails for show purposes (*Murphy v. Manning*, 41 J. P. 130). Leaving a diseased or injured dog to die is not an offence (*Everett v. Davies*, 42 J. P. 597).

Drugging Animals.—*See* title “Poisons,” *post*.

Drunkards.—*See* “Inebriates Act,” p. 102, *post*.

Embezzlement.—*See* p. 4, *ante*. The offence is treated of under the Larceny Act, ss. 68 and 70.

As to embezzlement of materials by workmen, *see* 17 Geo. 3, c. 56; 28 Geo. 3, c. 35 (frame work knitters), 6 & 7 Vict. c. 40 (hosiery).

Employers and Workmen, &c.—The Act of 1875 (38 & 39 Vict. c. 90), gives justices’ jurisdiction in disputes to limit of £10.

Under 17 Geo. 3, c. 56, and 6 & 7 Vict. c. 40, workmen and others are liable to penalties for embezzlement of materials entrusted to them.

46 & 47 Vict. c. 31, and 50 & 51 Vict. c. 46 (Truck Act), prohibit the payment of wages in public houses.

The Truck Act (1 & 2 Will. 4, c. 37), was passed to ensure artificers, &c., receiving their wages in full in the current coin of the realm. It is extended by the Truck Act Amendment Act, 1887, and the Truck Act, 1896. *See* title “Truck Act,” *post*.

Shop Hours Regulation Act.—*See* title “Factories and Workshops,” p. 91, *post*.

Evidence.—*See* p. 26, *ante*.

Explosives Act, 1875 (38 & 39 Vict. c. 17).—Amends the law regarding making, storing, and carrying gunpowder or other explosives. Inspectors are appointed under Act. (Sect. 69.)

Officers appointed should hold a *written* authority for appointment. Licenses have to be renewed, and premises re-registered every 12 months.

Sects. 63, 64, 65, 66, and 80 are important.

Sect. 39 of the Act refers to the application of Part I. of Act to all other explosives.

Private Use.—Gunpowder under 30-lbs. may be kept for private use without restriction, also fireworks for immediate use and various explosives (fog signals, fuses, &c.), for agricultural and railway purposes. As to schultz powder and EC powder, *see* Order of Sept., 1896.

Under sect. 73 of Act, a *Superintendent of Police*, in cases of urgency or where it appears that delay in obtaining a justice's warrant would endanger life, can by a written order *authorize any constable* to enter premises, &c., to search for and take samples of explosives. Penalty for failing to admit, £50.

By sect. 78 any person found committing an offence against the Act which tends to explosion or fire in or about any factory, railway, canal, magazine, boat, wharf, carriage, &c., may be *apprehended* by a constable without a warrant.

Under the Explosives Substances Act, 1883, causing explosion likely to injure life or property, is felony, as is also the keeping of explosives under suspicious circumstances. The Attorney-General may order enquiry.

Extradition.—Treaties are made under the Extradition Act, 1870, 33 & 34 Vict. c. 52.

The principal countries treated with are:—

France,	Italy,	Switzerland,
Germany,	Belgium,	Hayti,
Austria,	Sweden and	United States,
Hungary,	Norway,	Luxemburg,
Brazil,	Denmark,	Russia,
Spain,	The Netherlands,	Mexico.

See also 36 & 37 Vict. c. 60.

On the apprehension of any person under the Extradition Acts and the treaty with any country, he has to be brought before a magistrate of the Bow-street Police-court, London, even though the warrant may have been issued by a justice of the peace in some other part of the United Kingdom.

Note.—All demands for arrest of offenders fled, *must be first made* to the Secretary of State. Where arrest of offender for foreign state is required a “provisional warrant” should first be obtained.

FUGITIVE OFFENDERS ACT, 1881 (44 & 45 Vict. c. 69).—This Act deals with cases in which a person accused of an offence in one part of His Majesty’s dominions, is found in another part.

Factory and Workshops Act, 1878 (amended by Act of 1895).—Inspectors are appointed under Act. An inspector can, if he apprehend obstruction, take a constable with him into any factory (*a*). “Factories” are premises in which machinery is moved by mechanical power; a “workshop” is a place where no such power is used (*b*).

(*a*) This does not apply to “workshop.”

(*b*) A workshop is “overcrowded” if the number of cubic feet of air to each person be less than 250.

Labour for trade purposes, in house or room, by family, does not constitute a "workshop."

THE SHOP HOURS ACTS, 1892 to 1895, limit the number of hours during which a "young person" (under 18) can be employed in any shop or warehouse, or on licensed premises, to 74 hours (including meal times) in any one week. The Act does not apply to shops where the only persons employed are "at home," viz., "members of the same family" and servants dwelling in house.

THE SEATS FOR SHOP ASSISTANTS ACT, 1899 (62 & 63 Vict. c. 21), requires that seats be provided in shops where female assistants are employed in proportion of not less than one seat to three assistants.

False Alarms Fire Act, 1895 (58 & 59 Vict. c. 28).—Penalty attaches to the giving of "false alarms."

False Pretences (c).—The obtaining of goods or money by false pretences is a misdemeanor. A "false pretence" is a false representation made either by words, writing, or conduct. The "pretence" must be of some *pretended existing fact* (d). The offence is distinguishable from larceny, as the owner *consents* to the property being taken out of his possession, which is not the case in larceny. Any person "found committing" an offence may be apprehended without warrant. (Larceny Act, s. 103.) If an interval of several hours elapse, a warrant should be obtained. In *R. v. Jones* (obtaining food at restaurant with-

(c) Evidence of previous attempts can be given. *R. v. Francis* 38 L.R. 460. As to falsely collecting alms, &c., see "Vagrancy," p. 150, *post*.

(d) As to effect of S. J. Act, 1899, see p. 130.

out means to pay for same) the C.C.R. held there was no evidence of false pretences or of larceny, the prosecutor having voluntarily parted with the possession and property in food, but a conviction was sustainable for obtaining credit by fraud under Debtor's Act, 1869, s. 13. (*R. v. Wm. Jones*, "Times," Nov. 29th, 1897.) See p. 130.

First Offenders Act, 1887 (50 & 51 Vict. c. 25). — Under this Act persons convicted, for the first time, of larceny, or certain other offences, may be released on entering into recognizances to come up for judgment when called upon. The youth and character of offender, the trivial nature of the crime, and any extenuating circumstances must be considered. See also title "Youthful Offenders," *post*, and p. 130.

Fisheries. — The duty of the constabulary regarding fisheries should be confined to the protection of public rights. The police should take notice of and report such breaches of the fishery laws as affect public interests—viz., non-observance of close season, destruction of fry and spawn of salmon, trout, eels, &c. The 24 & 25 Vict. c. 96, s. 24, and the 24 & 25 Vict. c. 97, s. 32, authorize the arrest, &c., of persons stealing or injuring fish in fish-ponds, private waters, &c. A number of statutes passed since 1861, are known as the Salmon and Freshwater Fisheries Acts, 1861 to 1892.

The Freshwater Fisheries Acts, 1878 and 1884, are to be read as one with these Acts.

Poison. — Putting poison or noxious substance in water to destroy fish is punishable under Malicious Damages Act, 1861, s. 32.

Shellfish.—40 & 41 Vict. c. 42 prohibits taking of crabs less than $4\frac{1}{2}$ inches across back, or lobsters less than 8 inches from beak to tail.

Food and Drugs Acts, Sale of.—The Act (38 & 39 Vict. c. 63) passed in 1875, repealed all former Acts in force relating to the adulteration of food. The Act was amended by 42 & 43 Vict. c. 30 (1879), and 62 & 63 Vict. c. 51 (1899).

The term “food” shall include every article used for food and drink by man other than drugs and water. The term “drug” shall include medicines for internal or external use.

The Act provides for the appointment of a public analyst—the purchase of articles for analysis (a)—and the appointment of inspectors. The inspector may employ another person to purchase the articles if desirable. *Horder v. Scott*, 44 J. P. 520; *Stace v. Smith*, 45 J. P. 141.

Spirits (b).—Brandy, whisky, and rum are not to be reduced more than 25 degrees below proof, nor gin more than 35 degrees (Act of 1879, s. 6); “proof” spirit contains about equal parts of water and alcohol.

(a) Close attention must be paid to manner of procedure as laid down *in exact words* of statute. *Barnes v. Chipp*, 47 L. J. 85.

(b) As to notices posted up to effect that spirits sold are “mixed,” see *Sandys v. Small*, 42 J.P. 550; also *Pashler v. Stevenill*, 41 J. P. 136, as to spirit (gin) so mixed (44 per cent. below proof) as to fraudulently increase bulk.

Milk.—Samples of milk in transit can be taken at place of delivery. (Act of 1879, s. 3.)

Label.—As to protection of admixture by label, *see* principal Act, 1875, s. 8, and Act of 1899, s. 12.

THE ACT OF 1899 provides against the importation of agricultural and other produce insufficiently marked—especially “margarine cheese,” impoverished butter, and “machine-skimmed milk” (s. 1).

Milk.—Sec. 9 as to name and address of person selling milk or cream in a public place.

Label.—Sec. 12 as to distinctiveness of label in case of notice of mixtures. (38 & 39 Vic. c. 63.)

THE MARGARINE ACT, 1887, requires that dealers shall have every package marked “Margarine.”

Forgery.—*See* p. 4, *ante*.

Game.—The killing or taking of game without a game certificate is an offence against the Game Laws (*a*), the duties under which are discharged by the Excise authorities and not by police. The action of police in relation to game is set forth in the Poaching Prevention Act. *See* title “Poaching,” *post*. Police, however, are sometimes required to assist owners and keepers in cases where breach of peace with poachers is anticipated, and they frequently act as witnesses in cases of game trespass,

(*a*) Under the “Game Laws” game is defined as one or more hares, pheasants, partridges, grouse, heath or moor game, black game, and bustards. Eggs of game, and of swan, duck, teal, and widgeon are protected. (1 & 2 Will. 4, c. 32, s. 23.) *See also* note, p. 96.

but police are not to be employed as gamekeepers or watchers of game (b).

Game Trespass.—1 & 2 Will. 4, c. 32, s. 31 of Act directs that trespassers in pursuit of game not giving their real name or place of abode, or wilfully continuing or returning on the land when required to quit and give their name, surname, and place of abode by the person having the right to the game, or by the occupier of the land, or any gamekeeper or servant, of either of them or other person authorized may be *apprehended* by the party so requiring, or any person acting by his order or in his aid, and conveyed within 12 *hours* before a justice, but if not so conveyed within that time the party to be discharged, and proceeded against by summons or warrant.

Violence.—Persons (to number of five or more) who, being armed with guns, are found trespassing (see sect. 31 of Act) in search of game or conies are, if they offer violence to any person or persons described in sect. 31 of Act, liable to penalty of £5. (Sect. 32.)

Seizure. Game in the possession of any person so found, may be seized by occupier or person acting on his behalf. (Sect. 36.)

NIGHT POACHING (9 Geo. 4, c. 69, 1828).—Any person unlawfully taking game or *rabbits* by

Property in Game.—There is only a right of property in game, *ratione soli*, the owner of the soil having a right to take it, and having taken it, it becomes his property. See title "Larceny" (Game), *post*.

night (a) in any land, open or enclosed, or being on any land with gun, net, or engine to take or destroy game (b) are liable to imprisonment. (Sect. 1.)

Violence.—Offenders offering violence with gun, bludgeon, club, or other offensive weapon (c) to owners or occupiers, their keepers or servants, are guilty of misdemeanor (S. 2); as are persons to the number of three or more who, being armed with offensive weapons, are by night unlawfully on any land to take or destroy game or rabbits (d). (S. 9.)

THE GROUND GAME ACT, 1880, gives every occupier of land a right to kill ground game, viz., hares and rabbits (e). There is no close season for rabbits; as to hares, see title “Hares Preservation Act,” *post*.

Gaming.—See p. 70, *ante*.

Gun License Act, 1870 (33 & 34 Vict. c. 57).—Gun licenses are issued by the Excise (duty 10s.). Licenses expire 31st July each year. The term “gun” includes a firearm of any description, air-gun, &c. A toy pistol is a “firearm” (f).

(a) From one hour after sunset to one hour before sunrise.

(b) “Game,” under Act of 1828, includes hares, pheasants, partridges, grouse, heath or moor game, black-grouse, and bustards. (Sect. 13.) See also p. 94.

(c) Large stones may come within meaning of section.

(d) Rabbits are coupled with game in sects. 1 and 9 of Act, but the second part of sect. 1 does not include rabbits.

(e) As to right of tenant to kill game reserved to landlord, see *Pryce v. Davis*, 35 J.P. 274.

(f) A Bill to Regulate the Sale and Use of Pistols or other Firearms was introduced into Parliament, 21st January, 1902.

Every person who shall use or carry a gun *elsewhere than in a dwelling-house, or the curtilage (g) thereof*, without having in force a license duly granted under Act, shall forfeit the sum of £10.

Exemptions.—Certain persons are exempted from the penalty, viz.:—Persons in military, naval, or volunteer service, or in the police, carrying a gun in the performance of duty. Servants or others carrying guns for masters who have licenses. Occupiers of land using or carrying a gun for the protection of their crops, also servants authorized by licensed occupier. Gunsmiths and their servants; also carriers.

When a constable meets a person carrying a gun who he has reason to suspect has not a gun license the constable can demand the production of the license (*h*), and unless the person produces such license or a game license (*i*), the constable should require of him his name and address. If the person declares the same the constable should report the matter through his officers to the Inland Revenue. Should such person *refuse* his name and address, the constable may arrest him.

Hares Preservation Act, 1892 (55 Vict. c. 8), provides a close time for hares during the breeding

“Curtilage” would probably include enclosed ground *adjoining* house, but not an orchard separated from house by enclosed yard and garden. *Asquith v. Griffin*, 48 J.P. 724.

(*h*) The constable has no power of action within “curtilage” (Sect. 10.)

(*i*) In no case should the constabulary demand the production of a game certificate where a gun license is produced, as they have no duty to discharge as to whether persons have or have not a license to kill game.

season, March to July inclusive. *To Sell or Expose for Sale* during these months in any part of Great Britain any hare or leveret is an offence, penalty, 20s. The Act does not apply to foreign hares imported for sale.

Hawkers Act, 1888 (51 & 52 Vict. c. 33), repeals 50 Geo. 3, c. 41, and consolidates the law relating to hawkers. Sect. 2 defines a hawker to be any person *who travels with horse or beast* drawing or bearing burden, and goes from place to place or to other men's houses selling, &c., goods, wares, or merchandise; it includes a person selling in shop, booth, or stall in any place in which he does not usually reside or carry on business. Certain persons are exempted—commercial travellers, makers of goods, sellers of fish, fruit, victuals, coal, sellers of goods in market or fair.

A hawker must keep his name and the words "licensed hawker" on every package, vehicle, room, shop, handbill, used by him.

Licenses (£2) are obtained from the Excise, and expire on 31st March.

A police officer (amongst other persons) can demand production of license, and can arrest an unlicensed hawker.

Highway Acts (5 & 6 Will. 4, c. 50, 1835; 27 & 28 Vict. c. 101, 1864; 41 & 42 Vict. cc. 34 and 77, 1878).—Highways are defined to be all carriage or cart roads, bridle-ways, footways, bridges, causeways, churchways, and pavements. The police are required to enforce certain provisions of the Acts,

especially those relating to nuisances and obstructions. When a highway is in a dangerous state, notice should be given to surveyor.

Surveyors of roads are liable to penalties for neglecting to fence off any pit or hole, or for leaving heaps of stones, &c., on highways at night. Persons are liable to penalties for "encroaching" in any way on highways (*a*), erecting engines or machines within 25 yards, or burning limestone, &c., within 15 yards of road without proper screen. A justice can compel owner to cut trees obstructing carriage-way.

Nuisances.—(5 & 6 Will. 4, c. 50, s. 72). Riding or driving on footpaths, or driving cattle thereon, damaging highway fences, posts, bridges, &c., obstructing highways by tethering cattle, playing games to annoyance of any passengers, pitching tents, making fires, firing guns, letting off fireworks, &c., within 50 feet of centre of road, to the interruption or damage of anyone; injuring highway by laying material on or suffering any filth to flow on to, or in any way obstructing free passage of highway.

Carts and Drivers.—Owner's name and address must be painted on off side of carts, waggon, &c. (Sect. 76.)

When one person acts as driver of two carts the horse in hinder cart shall be attached by a rein (not more than four feet long) to foremost cart. (Sect. 77.)

(*a*) No encroachment is allowable which would reduce width of road to less than 30 feet.

Drivers of carts, &c., riding without reins, quitting road, being at distance from vehicle, causing obstructions, not keeping proper side, driving furiously, so as to endanger the life or limb of any passenger, &c., are liable to penalties. They are also liable for any damage occasioned by negligence. (Sect. 78.)

Cattle Straying, &c.—(27 & 28 Vict. c. 101. s. 25.) The owner of any animal found straying on or lying about any highway is liable to a penalty of 5s. for every animal so found. (Maximum penalty 30s.)

The offence is complete if cattle be straying or lying “whether tended or not.”

Persons committing offences against the Highway Acts should be summoned when their names can be obtained. Persons *refusing* to give their name and address may be *apprehended*, without warrant, by any surveyor or person acting under his authority, or *any other person* witnessing the commission of the offence. (Sect. 79.)

LOCOMOTIVES. —(*Agricultural*).—24 & 25 Vict. c. 70; 28 & 29 Vict. c. 83; 41 & 42 Vict. c. 77; 61 & 62 Vict. c. 29. Locomotives can only (a) be used on highways subject to certain restrictions regarding consumption of smoke, speed, weight, &c. (b).

Two persons at least are to be in charge of each locomotive.

(a) But *see also* title “Light Locomotives,” *post*.

(b) *Speed* not to exceed four miles an hour on road, and two miles an hour in town or village.

Further provisions are made regarding sounding whistle, affixing lights, &c. Restrictions may be made regarding the passage of locomotives over bridges.

Bye-laws.—Local authorities are empowered to make bye-laws regarding locomotives.

As to *Light Locomotives* on Highways.—See p. 113.

Horseflesh (Sale of) Regulation Act, 1889 (52 & 53 Vict. c. 11).—No person shall sell or expose for sale horseflesh for human food elsewhere than in a shop, stall, or place, on which is placed words indicating that horseflesh is sold there—Penalty, £20. Horseflesh includes the flesh of asses and mules.

Husband and Wife.—See title “Married Women.”

Indictable Offences Act, 1848 (c) prescribes course of procedure in indictable cases (*d*). Justice can issue summons or warrant on information. See p. 139

Indecent Advertisements Act, 1889 (52 & 53 Vict. c. 18).—The affixing or delivering in any public place of any indecent advertisement is punishable by fine or imprisonment. Sect. 5 defines advertisements declared indecent. Offenders may be arrested on view of offence. See also title “Obscene Books,” *post*.

(c) This Act and Summary Jurisdiction Act of 1848 are known as Jervis’ Acts.

(d) An *Indictment* is a written accusation of crime preferred to, and presented by a grand jury—called a *bill* when presented, and an *indictment* when found.

Industrial Schools.—A school in which industrial training is provided, and which is within the meaning of the Act, 29 & 30 Vict. c. 118, when certified by the Secretary of State, shall be deemed a certified industrial school. Justices may send to such a school children coming within the following descriptions : Children under 14 begging in any public place, or wandering without a home, or found destitute, or in company of reputed thieves, criminals or disorderly persons. See also title “ Youthful Offenders,” *post*.

Inebriates Act, 1888 (51 & 52 Vict. c. 19), re-enacts the Habitual Drunkards Act, 1879, which provided for “retreats” for purposes of self cure. Application for admission to “retreats” can be attested by any two justices.

The Inebriates Act of 1898 provides for the establishment of State reformatories.

The Infant Life Protection Act, 1897, repeals the Act of 1872 (a). Any person, relative or guardian excepted, receiving for hire or reward more than one infant under 5 years to nurse or maintain, apart from its parents, for longer than 48 hours, shall forthwith notify the local authority (Board of Guardians). Notice must also be given if any infant

(a) Passed to prevent the practice known as “baby farming.” An Amendment Bill was introduced into Parliament 21st March, 1902, proposing to extend the Act to cover cases where only *one child* was taken.

is received for not more than £20 paid down. In event of death of child, coroner is to be notified.

A constable may remove to a workhouse or other fit place an infant improperly kept. (Sect. 36.)

Infants.—See pp. 61, 76. "*Infanticide*" is the killing of an infant after it is born.

Larceny (b).—24 & 25 Vict. c. 96, is known as the "Larceny Act," and treats of larcenies generally—the stealing of animals (c), fish in private waters, trees, fruit (d), cultivated plants (e), fences, lead, ore, documents, &c. Also crimes of robbery, burglary (f), housebreaking, "sacrilege," embezzlement, obtaining goods by false pretences, stealing goods in process of manufacture, stealing in dwelling-house, lodger, &c., stealing from lodgings, stealing from barge or wharf, stealing shipwrecked goods, &c., obtaining money by threatening letters, &c., receiving stolen goods, &c.

(b) Larceny is either simple or accompanied by circumstances of aggravation, the distinction between grand and petty larceny being abolished. The component parts of offence are (1) the taking, (2) the carrying away or asportation, (3) the felonious intent. See p. 3.

(c) Dog stealing is an offence under the Act (sect. 18), and a second offence is an indictable misdemeanor. See sect. 19 of Act, as to possession of skin of dog.

(d) The right to take apples on branches overhanging offender's garden is a moot point. (32 J. P. 525.) p. 106.

(e) Mushrooms, watercress, flower roots, and plants growing without cultivation are not within sect. 37 of Act. It is undecided whether if manure or salt be laid down to stimulate the growth of mushrooms they become cultivated plants (*R. v. Wallis*, 50 J. P. 281), p. 106.

(f) See pp. 3, 5, 106.

Larceny by Bailee.—Persons to whom goods are entrusted for a specific purpose—conveyance, repair, etc., are considered “bailees” of such goods ; if the bailee converts such goods to his own use, he is guilty of larceny. (Sect. 3.)

Larceny by Finding.—To convert goods found to one’s own use, believing the owner can be found, is larceny.

Misdelivery.—To wrongfully appropriate goods given or delivered by mistake may be larceny (*a*).

Larceny by Servant.—A servant giving away his master’s goods without authority, commits larceny. As to servant taking corn for horses without permission, see title “Master and Servant,” p. 118, *post*.

Larceny by Trick.—Where a person by trick or fraudulent expedient obtains goods with intention of stealing (*animo furandi*), the owner never intending to part with right of property, a conversion of them will be larceny ; but where *the property and ownership* are parted with as well as possession through trick or fraud, the offence, if criminal, is that of obtaining goods by false pretences. In the case of *R. v. Solomons* (1890), 34 S. J. 490, where a shilling was obtained by means of the “Purse Trick,” the C.C.R. held there was *no larceny*, but evidence of false pretences. As to fraudulently obtaining food

(*a*) Where a sovereign was given in mistake for a shilling, and appropriated, the court of fourteen judges were evenly divided on question of larceny. *R. v. Ashwell*, 55 L. J. 65 ; 50 J. P. 184.

in restaurant, see *R. v. Jones*, "False Pretences," p. 91, *ante*.

Obtaining money by "ring dropping," "ringing the changes," &c., is larceny. *R. v. Holles*, 48 J. P. 120. As is also obtaining money by means of mock auction. *R. v. Magrath*, 21 L. T. 543. "Welshing" was declared felony in *R. v. Buckmaster*, see title "Betting," *ante*, p. 71; and the C.C.R. upheld a conviction in *R. v. Sharp* (*Times Law Reports*, p. 152).

The following are important sections of Act:—

Sect. 1. *Night*.—"For purposes of Act night commences at 9 P.M. and concludes at 6 A.M.

Sect. 21. *Animals of wild nature (feræ naturæ)*.—To steal any bird, beast, or other animal, ordinarily kept in a state of confinement or for any domestic purpose, not being the subject of larceny at common law (*b*), or wilfully to kill any such bird, beast, or animal, with intent to steal the same, or any part thereof, is an offence.

Rooks.—Taking rooks from trees is not punishable, they being animals *feræ naturæ*, but proceedings might be taken for damage to trees.

Game.—Dead game before it is reduced into possession is not the subject of larceny, and if a person picked up wounded game alive but in a dying state, he is not guilty of larceny. *R. v. Roe*, 22 L. J. 415.

(*b*) As bears, foxes, monkeys, apes, polecats, cats, ferrets, thrushes, singing-birds in general, parrots and squirrels, and others probably kept for whim or profit, as badgers, hawks, herons, falcons, goats, rooks.

Sect. 23.—The killing or taking of pigeons (*a*) unlawfully is an offence.

Sects. 32 to 37. *Trees, Shrubs, &c.* To steal or destroy trees or shrubs (if value exceed £1) growing in parks or gardens, or ground adjoining dwelling-house, is felony; as also if growing elsewhere when value exceeds £5. The stealing, &c., of trees or shrubs *wheresoever growing*, to the value of 1s., is punishable under sect. 33. The stealing, &c., of any plant, root, *fruit (b)*, or vegetable production *growing in gardens (c)*, is punishable under sect. 36. The stealing, &c. of any cultivated root (*d*) or plant *growing in any land* is punishable under sect. 37.

Sects. 40 to 60. Robbery, Burglary, House-breaking, &c., demanding money by threat. *See* p. 3. Regarding Embezzlement, Sect. 68; and False Pretences, Sect. 88. *See* p. 91.

[The Larceny Act, 1901, repeals sects. 75-76 Larceny Act, 1861, and enacts that whosoever (solely or jointly) fraudulently misappropriates property entrusted to him shall be guilty of a misdemeanor.]

(*a*) Where a farmer kills a pigeon under claim of right, a conviction is not sustainable.

(*b*) Section 37 omits the word fruit.

(*c*) It seems that stealing growing fruit from any other than the places specified in sections is not an offence. (Stone's Justices' Manual.)

(*d*) Stealing clover cut in a field was held punishable, it being a "cultivated root." *R. v. Brumby*, 17 L. T. 261, 32 J. P. 462.

As to receiving Stolen Goods. Sects. 91 to 100.
See p. 131.

The "Receiver" may be indicted as accessory or for substantive felony, whether principal be convicted or not. As to restitution and recovery of stolen property, *see* p. 136 and p. 79.

Sect. 103 (*Arrest*) authorizes *the arrest*, without warrant, of anyone found committing offences against the Act, *except* only the offence of *angling in the day-time*. (Sect. 24.) The section also authorizes the arrest of persons offering for sale or pawn goods supposed to be stolen, &c.

Sect. 104 authorizes *the arrest* by a constable of any person whom he shall find lying or loitering in any highway, yard, or other place during the night, and whom he shall have good cause to suspect of having committed or being about to commit any felony against this Act.

ATTEMPTED CRIME (*e*).—*See* p. 4, *ante*.

Libel.—A Libel consists of defamatory matter expressed either in writing, signs, or pictures tending to blacken the character or reputation, and expose one to public hatred, contempt, or ridicule.—Indictable Misdemeanor. Words spoken, however scurrilous, are not the subject of indictment.

(*e*) *Attempt to pick Empty Pocket*. A conviction for an attempt can be supported even if the attempt could not have been practically carried out. *R. v. Brown*, 59 L.J. 47. *R. v. Ring*, 56 J.P. 552, overruling *R. v. Collins* 12 W. R. 886.

Licensing.—Licenses for the sale of intoxicating liquor are issued by the Excise, and are in force for one year only. For the issue or renewal of licenses it is necessary to obtain a certificate from the magistrates at their annual licensing sessions (*a*).

The Licensing Acts of 1872 & 1874 contain provisions for regulating the sale of liquor, and the good conduct and order of public houses. The police are authorized to enter on licensed premises at any time for the purpose of preventing or detecting offences. See p. 44, *ante*, and pp. 110 and 112, *post*.

Evidence of Sale. It shall not be necessary to show that money passed or liquor was actually consumed if the court be satisfied that a transaction in nature of sale actually took place. (Sect. 62. Act of 1874.)

LICENSING ACT, 1872.—*Offences against Act.*

Illicit Sales.—Selling without license or elsewhere than where authorized, selling, &c., contrary to conditions of license—viz., selling or consuming liquor *on or near* premises when licensed to sell for consumption *off* premises only; selling *spirits* for consumption on premises to children under 16 years of age (*b*), selling by other than standard measures. (Sects. 3 to 8. 35 & 36 Vict. c. 94.)

Drunkenness.—Drunkenness in a public place or on licensed premises, drunkenness in any public place *and being guilty of any riotous or disorderly*

(*a*) The decision in *Sharp v. Wakefield* (H. L. 20, March, 1891) gave rise to an impression that an alteration in the law had been effected. That was not so. The judges dealt with the case under existing statutes.

(*b*) See title "Sale of Liquor to Children," *post*.

conduct. See "Drunkenness," p. 46, *ante*. Drunkenness in a public place whilst in charge of any carriage, horse, cattle, or steam-engine, drunkenness in *any place* when in possession of loaded firearms. (Sect. 12.)

Disorderly House.—Any licensed person permitting drunkenness (*c*) on licensed premises or selling liquor to drunken persons, keeping disorderly house (*d*), or allowing premises to be a brothel. (Sects. 13 to 15)

Excluding Drunkards.—Persons drunk, violent, &c., refusing to quit licensed premises on request of licensed person, his agent, or servant, or any constable, may at request of landlord (sect. 18), be forcibly expelled by a constable (*e*). See p. 44, *ante*.

Gaming, Harboursing, &c.—Any licensed person permitting gaming (*see* p. 71), or using premises as a betting house (*see* p. 70, *ante*); supplying liquor to or harbouring a constable on duty (*f*), or attempting to bribe constable. (Sects. 16 and 17.)

(*c*) Under this section a publican cannot be convicted of being drunk on his own premises. *Warden v. Tye*, 41 J. P. 120.

(*d*) Prostitutes are entitled to refreshment like other people. See 22 J. P. 816.

(*e*) A constable is not authorized to arrest offender *whilst on the premises*.

(*f*) *Mullins v. Collins*, 38 J. P. 84.—*Sherras v. De Rutzen* (1895), 1 Q. B. 918, 59 J. P. 290; also 440; 64 L. J. 218.

Licensed premises (a) are defined as premises in respect of which a license, as defined by sect. 74 of Act of 1872, is granted, and "premises" shall include every room, closet, cellar, yard, stable, outhouse, shed, or any other place whatsoever belonging or in any manner appertaining to such licensed house or place. See pp. 108, 112.

Closing Hours.—Sect. 24, Act of 1872, as to "closing hours" is repealed by sect. 33, Act of 1874, its provisions being re-enacted in amended form, by sect. 3 of that Act. See p. 111, *post*.

Found on Premises.—Persons (other than inmates, servants, lodgers, or *bonâ fide* travellers) (b) found on premises (c) during "closing hours" are liable to penalties, and if unknown to police, may be apprehended. (Sect. 25.)

[*Private Friends.*—A publican can entertain his friends, but he cannot convert his private friends into customers to evade the statutes. See also p. 71.]

Exemption Orders.—(Sects. 26 to 29.) Local authorities may exempt licensed premises from "closing" provisions, if it seem desirable to do so for the accommodation of the public. (Sect. 26.)

(a) An "inn" is defined as a place intended for passengers and way faring men.—A "tavern" is not within this definition. (47 J. P. 579.)

It is an indictable offence for an inn-keeper to refuse to entertain a traveller without legal excuse, as want of accommodation, or unfitness of guest. *R. v. Rymer*, 46 J. P. 635.

(b) See note, p. 112 *post*.

(c) The person must be "found" on the premises; being seen to leave the premises, will not of itself be sufficient.

Occasional Licenses(*d*).—A local authority may grant “occasional licenses” exempting premises from “closing” on *any special occasion* (*e*). (Sect. 29.)

Sects. 30, 31.—“Forfeiture,” “Disqualification.”

Evidence of Sale. (Sect. 62.) See p. 108.

BILLIARDS.—Billiard and bagatelle licenses are obtainable (8 & 9 Vict. c. 109, s. 10) from justices at licensing sessions (*f*). Rooms so licensed must be kept closed from 1 A.M. to 8 A.M. daily, and on Sunday, Christmas Day, and Good Friday. (Sect. 75.)

LICENSING ACT, 1874 (37 & 38 Vict. c. 49).

Closing Hours.—The hours (*g*) for closing in rural districts is 10 P.M. (in “populous place,” 11 P.M.), the hour for opening is 6 A.M. On Sunday premises can open at 12.30 P.M., to be closed again from 2.30 until 6 P.M., when they may remain open until 10 P.M. On Good Friday and Christmas Day the hours are the same as on Sunday. (Sect. 53.)

Power of Entry on Premises.—“Any constable may, for the purpose of preventing or detecting the violation of any of the provisions of the principal Act or this Act, which it is his duty to enforce *at all times*, enter on any licensed premises and on any premises in respect of which an *occasional license* is in force.” (Sect. 16.) See p. 110.

(*d*) As to Occasional (Excise) License, *see* p. 112.

(*e*) This is for justices to determine. (50 J.P. 551.)

(*f*) Police can enter to inspect. The words “Licensed for Billiards” must be posted.

(*g*) Legal time is Greenwich mean time. 43 & 44 Vict. c. 9 (1880). “Definition of Time Act.”

Occasional (Excise) Licenses.—The Excise can (subject to consent of Justice) grant to duly licensed persons “occasional licenses” for the sale of liquor in tents, booths, &c., at fairs, shows, balls, races, &c. (Sect. 18.) See also p. 111.

Bonâ fide Travellers.—Licensed persons incur penalties for selling, &c., to any person any intoxicating liquor during prohibited hours, but an exception is made in the case of *bonâ fide* travellers, lodgers, and railway travellers at stations. A person shall not be deemed to be a *bonâ fide* traveller (a), unless the place where he lodged during the preceding night is three miles distant from place where he demands to be supplied with liquor. (Sect. 10.)

Search Warrants can be issued for detection of liquor sold or kept contrary to law. (Sect. 17.)

As to Sale of Liquor to Children, see p. 139.

Lights on Vehicles.—A bill having for its object the bringing into uniformity existing bye-laws and regulations was introduced into Parliament, Session 1901-2, but was subsequently dropped.

(a) Much legal controversy has arisen regarding the word “traveller.” The decision in *Penn v. Alexander* is important: A number of men (some 130) made a practice of walking 3½ miles very Sunday, and were then served with beer. The Justices found as a fact that they “travelled” solely to get beer and were not *bonâ fide* travellers. (62 L. J. 65., 57 J. P. 118 & 131.)

Local Government Act, 1888.—Under this Act England is divided into 122 areas. It provides for the appointment of county councils, standing joint committees, &c. For purposes of police, &c., there shall be a “Standing Joint Committee” of the quarter sessions and the county council consisting of such equal number of justices, and of members of council as may be arranged.

Locomotives (Light).—By the Locomotives on Highways Act, 1896 (59 & 60 Vict. c. 36), certain enactments restricting the use of locomotives on highways shall not apply to any vehicle propelled by mechanical power, *if under three tons in weight*, which is not used for the purpose of drawing more than one vehicle, and is so constructed that no smoke or visible vapour is emitted therefrom. As to special provisions, *re* speed (*b*), construction, &c., *see* circular-letter of Local Government Board, 9th November, 1896. A light locomotive shall be deemed to be a carriage, and as such is subject to regulations as to lights, bell, &c., similar to those in force for bicycles.

As to “Agricultural” Locomotives, *see* p. 100.

Lord’s Day Act.—*See* p. 142.

(*b*) Speed in no case to exceed 12 miles an hour; proportionate speed according to weight.

Lotteries.—(42 Geo. 3, c. 119 ; 8 & 9 Vict. c. 74). Lotteries are deemed to be public nuisances, and keepers and players may be indicted. Lotteries are described as any game, lottery, or little-go, not authorized by law, exposed to be played, drawn, &c., either by dice, lots, cards, balls, or by numbers or figures, or by any other contrivance or device. (*Morris v. Blackman*, 28 J.P. 199.) 8 & 9 Vict. c. 74, prohibits the advertising, &c., of lotteries. Persons connected with “Art Unions” are protected from penalties under 9 & 10 Vict. c. 48, on complying with provisions of statute. Regarding “games of chance,” see “Gaming,” p. 71, *ante*.

Lunatics.—The Lunacy Act, 1890 (53 Vict. c. 5) contains 342 sections, and is amended by the Lunacy Act, 1891.

Persons wandering at large who are deemed to be lunatics are to be apprehended and taken before a justice. (Sect. 15.)

A constable may, if necessary for his safety, remove an alleged lunatic to a workhouse for proper care and control, but detention must not exceed three days unless proceedings under Act are initiated.

If a constable, overseer, &c., discover that a lunatic, resident in district or parish, is not under proper control, or is illtreated or neglected, he must within three days give notice to a justice, and the justice may order the constable to forthwith remove the lunatic to an asylum. (Sect. 13.) Police can, however, make arrangements for performance of duty by some other person. (Sect. 2, Act of 1891).

The Criminal Lunatics Act, 1838, requires a constable or overseer, under order of justices, to convey to an asylum any lunatic or dangerous idiot likely to commit an indictable offence. Provision is made for payment of expense incurred. The Act of 1860 provides for the apprehension of an escaped criminal lunatic. (Sect. 4.)

Escape and Recapture.—A lunatic having escaped from an asylum can be retaken at any time within fourteen days of escape; after that period a fresh order and certificate are required before recapture.

Insane or Dumb Prisoner.—The Trial of Lunatics Act, 1883, makes provision for trial of dumb or insane prisoners.

Malicious Damages Act, 1861 (24 & 25 Vict. c. 97.)—Malicious injury to property of all kinds is punishable under this Act,—injuries to horses, cattle, trees, vegetable productions, fences, bridges, engines, fish, canals, ships, goods, railways, telegraphs, &c. (a).

Regarding the crime of Arson, see pp. 4, 6, *ante*.

“Malice,” in ordinary acceptance of term, means “ill-will” against any person, but in *legal* sense means wrongful act done intentionally without just cause or excuse.

Persons *found* offending can be arrested. (Sect. 61.)

(a) Also crime of sending letters threatening to destroy.

Mantraps.—It is a misdemeanor to set any man-trap, spring-gun, or other engine calculated to destroy human life or inflict grievous bodily harm elsewhere than in a dwelling-house for its protection from sunset to sunrise (24 & 25 Vict. c. 100 s. 31).

Margarine—*See* p. 94, *ante*.

Market Overt.—*See* title “Restitution,” *post*.

Marine Store Dealers.—Sect. 480 of the Merchant Shipping Act (17 & 18 Vict. c. 104), applies to marine store dealers, who are required to have their names, together with the words “dealer in marine stores,” legibly painted on their premises. The dealer is also required to keep books and enter therein an account of the articles purchased, with the name and description of the person from whom purchased. A dealer is prohibited from buying from person under 16.

A dealer in marine stores is described as a person buying and selling anchors, cables, sails, or old junk, old iron, or marine stores of any description.

It is questionable whether Act would apply to persons in inland towns, dealing in old iron, but all old metal dealers are now subjected to special provisions under the Old Metal Dealers Act, and Prevention of Crimes Act. *See* pp. 122, 132.

Married Women.—Married Women’s Property Act, 1882 (45 & 46 Vict. c. 75), repeals Act of 1870. A married woman now possesses the same rights as to separate property as if unmarried, but no proceedings can be taken against husband whilst parties are living together. (Sect. 12.)

Sect. 16 modifies common law as to immunity of wife found stealing her husband's goods. If a married woman commits theft or like offence by coercion of husband she is not considered guilty. *See* p. 156, *post*.

In 1884 an Act (47 Vict. c. 14) was passed to remove any doubts as to competency of parties (husband and wife) to give evidence against one another.

MARRIED WOMEN'S SUMMARY JURISDICTION ACT, 1895, (58 and 59 Vict. c. 39), enacts that in certain cases of assault, illtreatment, or desertion (*a*) an application may be made to justices, by wife, for an order under Act, for—

(1) Non-cohabitation, tantamount whilst in force to a judicial separation.

(2) Custody of children under sixteen.

(3) Weekly allowance, not exceeding £2.

(4) Payment of costs of case.

The adultery of wife will be a bar to any order.

Master and Servant.—*See also* title “Employers and Workmen,” p. 88, *ante*.

Characters, &c.—A person personating a master and giving false character (*b*) to servant, is liable to fine or imprisonment, as is any person offering himself as servant with false or falsified certificate.

A menial servant can be discharged without notice, for reasonable cause—such as moral misconduct, disobedience, neglect—wages then due being only payable.

“Desertion” is the wilful absconding of husband against will of wife, leaving her unprovided for.

(*b*) A master is not bound to give a character to a servant. *Carroll v. Bird*, 3 Esp., 201.

As to "Larceny by Servant," *see* p. 104.

A servant using master's corn for horses, without authority, is not guilty of felony, but is liable to imprisonment, unless justices consider case too trivial for judgment. (26 & 27 Vict. c. 103.)

Merchandise Marks Act, 1887.—To forge or falsely apply trade marks, or to sell goods with false trade marks is an offence.

Merchant Shipping Act, 1894, enumerates offences by seamen or passengers, and contains police provisions *re* marine store dealers, wreck, &c. (a).

Metal Dealers.—*See* title "Old Metal Dealers," *post*.

Money-lenders Act, 1900.—The Act secures registration of money-lenders, and provides securities against inequitable transactions.

Murder (definition).—Murder is where a person of sound memory and discretion unlawfully kills any human being *with malice aforethought*. Manslaughter is the unlawful killing *without malice* (b).

Necessity.—A person may successfully justify killing another in self defence (c), but he must not take

(a) *As to over-crowding of passenger steamers, see* ss. 283, 680, 684, and H.O. Circ., 14-6-00.

(b) *See* pp. 61, 62, and 103.

(c) *As to killing a burglar, see* "Stephen's Commentaries," 8th edit., vol. iv., p. 49: "If any person attempts the robbery or murder of another, or attempts to break open a house in the night time, and shall be killed in such an attempt either by the party assaulted or the owner of the house, or the servant attendant upon either, or by any other person present and interposing to prevent mischief, *the slayer shall be acquitted and discharged.*" (Stephen's Digest of Criminal Law, p. 124.)

away the life of an innocent person to save his own. The "doctrine of necessity" was fully discussed in *R. v. Dudley*, 54 L. J. 32, 49 J. P. 69 (the "Mignonette" case), where two seamen, exposed for 18 days in an open boat, killed and fed on a dying comrade; they were held guilty of murder, but subsequently pardoned.

Culpable Negligence.—Any person neglecting to perform a duty imposed on him by law or contract tending to preservation of life, who neglects through want of care and attention to perform that duty, and thereby causes the death of another, is guilty of "culpable negligence."

Music and Dancing.—The Public Health Amendment Act, 1890 (part IV.), where adopted by local authority, empowers justices to grant music and dancing licenses at special sessions, 14 days' notice being given to chief of police and clerk to justices. *See also* p. 135, and title "Theatres," *post*.

Night Poaching.—*See* title "Game," p. 95, *ante*.

Nuisances.—A public nuisance is one which annoys the community generally, and not a few individuals only.

The Public Health Act, 1875, defines nuisances dangerous to health—filthy premises, overcrowding, unnecessary accumulation of deposit, &c. The police in such cases, should notify Sanitary Authorities, who can proceed under Act.

A constable is not authorized to enter premises to seek for nuisance, without order of justice.

Offensive trades and steam whistles may become nuisances as may also a gipsy encampment, a "merry-go-round" (*a*), an encroachment on village green (*b*), keeping ferocious animals, &c.

Oaths Act, 1888 (51 & 52 Vict. c. 46), s. 5, permits any person who desires it to be sworn with uplifted hand, in form and manner in which oath is usually administered in Scotland. Witnesses may affirm or make declaration in lieu of oath. (24 & 25 Vict. c. 66.)

Obscene Books.—The Act 20 & 21 Vict. c. 83, contains provisions for the suppression of trade in obscene books, prints, drawings, &c. Offenders can be punished under the Vagrant Act.

A warrant to search for and seize all such books, pictures, &c., kept in any house, shop, or other place, can be issued under certain circumstances.

See also title "Indecent Advertisement Act," p. 101, *ante*.

Offences against the Person Act, 1861 (24 & 25 Vict. c. 100).—Sects. 1 to 16 of Act relate to murder, attempts to murder, and manslaughter. Sects. 17 to 35 deal with acts causing or tending to cause danger to life or bodily harm—using chloroform to commit offence (sect. 22), corrosive fluid throwing (sect. 29), injuries to apprentices or servants. (Sect. 26.)

Offences against Children, &c. Abandonment of child under two years. (Sect. 27.) Stealing

(*a*) *Lambton v. Mellish*, 58 J. P. 242.

(*b*) Commons Act, 1876 (39 & 40 Vict. c. 56), s. 29.

(kidnapping) of child under fourteen. (Sect. 56.)

Concealment of Birth. *See* title, p. 79, *ante*.

BIGAMY.—*See* title, p. 72, *ante*.

ASSAULTS.—Sects. 36 to 41 deal with assaults under particular circumstances on various classes of persons—clergymen, magistrates, peace officers, &c. Sect. 42 relates to common assaults. Sect. 43 relates to assaults on females and boys. Sects. 48 to 55 relate to Rape, Indecent Assault, Abduction, Abortion, &c.

Indecent Assault.—(Sects. 52 to 63.) Whosoever shall be convicted of any indecent assault on any female (c) shall be guilty of misdemeanor.

As to defilement of girls, *see* title “Women and Girls,” *post*.

ABDUCTION.—(1) The taking away or detaining against her will—with intent to marry or carnally know—of any woman who has any interest in any property. (2) The taking away—with intent, &c.,—against will of parents or guardians of any such woman being under the age of twenty-one years. (3) The forcible detention—with intent, &c.,—of any woman. Felony. (Sects. 53 & 54.)

The abduction of any unmarried girl under sixteen is a misdemeanor (d). (Sect. 55.)

As to abduction of girl under eighteen, *see* title “Women and Girls,” *post*.

[*Seduction* is not a criminal offence, but civil proceedings may be taken by the parent.]

(c) It shall be no defence to charge of assault on child *under thirteen* to prove “consent” to act of indecency.

(d) If girl be under sixteen consent is immaterial.

ABORTION. —The offence may be committed by—

(1) A woman *being with child* who, to procure miscarriage, administers to herself any poison or noxious thing or uses instruments. Felony.

(2) Any other person doing the same with like intent, whether the woman be with child or not. Felony. (Sect. 58.)

(3) Any person supplying drugs or instruments for carnal purposes commits a misdemeanor. (Sect. 59.)

RAPE is the carnal knowledge of a female forcibly and against her will (Sect. 48). A male under fourteen is presumed by law incapable of committing rape.

As to "Criminal Investigation" in cases of rape, see p. 8, *ante*; see also title "Women and Girls."

Sodomy and Bestiality (*abominable crime*) are unnatural offences committed by man with mankind, or by mankind with any animal (*a*). (Sects. 61 & 62.)

Old Metal Dealers Act, 1861 (24 & 25 Vict. c. 110).—Dealers in old metals are defined as persons buying or selling old metal, scrap metal, broken metal, or partly manufactured metal goods. The term "old metal" applies to all such articles.

The police can, under certain circumstances, apply for a warrant and search the premises of dealers in old metal. If a dealer be convicted of receiving stolen metal, the justices may order that he be registered. A dealer so "registered" has to keep

(*a*) Punishment—penal servitude; the "attempt" is a misdemeanor.

books and give account of metals bought and sold. As to quantity of metal which may be purchased, *see* title "Prevention of Crimes Act," p. 132, *post*.

Pawnbrokers.—(35 & 36 Vict. c. 93.) Pawnbrokers and persons receiving goods in pledge are required to keep books, &c., showing entries of sales and goods received. Their premises can be searched under the authority of a search warrant, and a constable executing such warrant can, if necessary, break open doors. Pawns cannot be taken on Sundays, Christmas Day, or Good Friday.

Illegal Pawning.—Any person pawning anything the property of another person without authority, is liable to a penalty of £5 and value of article.

Note.—Under sect. 103 of the "Larceny Act," persons to whom any property shall be offered in pawn can, on suspicion, *apprehend* the party offering same.

Pedlars Act, 1871 (34 & 35 Vict. c. 96).—The term "pedlar" means any hawker, pedlar, petty chapman, tinker, caster of metals, mender of chairs, or other person, who, without any horse or other beast bearing or drawing burden (*b*), travels and trades on foot (*c*), and goes from town to town or to other men's

(*b*) *See* title "Hawkers," p. 98, *ante*.

(*c*) A "pedlar" is described as one *who travels on foot* from town to town, or from house to house. Persons standing in the streets to sell their goods do not seem to come within the definition (37 J. P. 316). *See also* "Hawkers," p. 98, *ante*.

houses, carrying to sell or exposing for sale any goods, wares, or merchandise, or procuring orders for goods, &c., immediately to be delivered, or selling or offering for sale his skill in handicraft.

Certificates.—Every pedlar is required to take out a certificate, application for which must be made to the chief officer of the police.

Persons convicted of felony cannot be granted certificates, and certificates are forfeited in case of conviction for begging.

Constables are authorized to demand certificates, and to arrest uncertificated pedlars. It is also lawful for them to open and inspect the pack, box, bag, &c.

The following persons are exempted :—

Commercial travellers, sellers of fish, fruit or vegetables, or persons selling goods in fair or market.

PEDLARS ACT, 1881 (44 & 45 Vict. c. 45).—By sect. 2 of this Act, it is enacted that a pedlar's certificate granted under the Pedlars Act, 1871, shall, while in force, authorize the person to whom it is granted to act as a pedlar *within any part* of the United Kingdom, thus doing away with necessity of "endorsements" on certificates required under Act of 1871.

Penal Servitude Act, 1891 (54 & 55 Vict. c. 69), reduces the minimum for sentence of penal servitude from *five* to *three* years, repealing sect. 2 of the Penal Servitude Act, 1864. See also title "Convicts," p. 80, *ante*.

Convicts can (after first nine months) obtain remission of one quarter part of their sentences by good behaviour in prison.

Perjury.—Misdemeanor at common law—the wilful false representation of some fact *material to question at issue*, made on oath before some legally constituted court or tribunal. “Subornation” is procuring another to take such oath.

Petroleum Acts (34 & 35 Vict. c. 105 (1871); 42 & 43 Vict. c. 47 (1879)).—The Acts provide for the safe keeping of petroleum and other substances of a like character. Inspectors appointed under the Acts should have a *written* appointment from the authority appointing them.

Petroleum.—The term “petroleum” includes any rock oil, Rangoon oil, Burmah oil, oil made from petroleum, coal, schist, shale, peat, or other bituminous substance, and any product of petroleum, or any of the above-mentioned oils.

The petroleum to which the Act applies means such petroleum as, when tested in the manner set forth in Sched. I. of the Act of 1879, gives off an inflammable vapour at a temperature of less than 73 degrees of Fahrenheit’s thermometer (*a*). Benzoline and paraffin, &c., giving off such inflammable vapour come within Schedule of Act (*b*).

Keeping of Petroleum.—Petroleum shall not be kept except in pursuance of license granted by the local authority, but under sect. 7 of Act of 1871 it may be kept for private use or for sale if kept in separate glass, metal, or earthenware vessels, con-

(*a*) The expenses incurred in “testing” can be claimed as *costs*. (Sect. 11. Act of 1871.)

(*b*) The raising of the flashing point to 100 degrees has been under consideration.

taining not more than one pint each, if securely stoppered; aggregate amount not to exceed *three* gallons.

PETROLEUM (HAWKERS) ACT, 1881 (44 & 45 Vict. c. 67).—Any person who is licensed under Act of 1871, may, subject to the enactments relating to hawkers and pedlars, hawk such petroleum by himself or his servants. Sect 2 prescribes with minute detail the regulations for hawking. Sect. 4 gives certain powers (as to prevention of offences) to constables or officers authorized by the local authority.

Pistols.—*See* note (*f*) p. 96.

Poaching Prevention Act (25 & 26 Vict. c. 114).—The constabulary have no duties to discharge under the “Game Laws,” which are put into operation by private individuals and by the Excise authorities (p. 94), but under the Poaching Prevention Act police are required to deal with certain offences committed in highways, streets, or public places.

The Act enacts “that it shall be lawful for any constable or police officer in any county, borough, or place in Great Britain *in any highway, street, or public place* (*a*) to search any person whom he may have good cause to suspect of coming from any land where he shall have been unlawfully in search or pursuit of game, or any person aiding or abetting such person, and having in his possession any game unlawfully obtained, or any gun, part of gun, or nets or engines

) It has not been decided under the statutes whether a railway platform is a “public place” or not, or a public-house to which poachers have been followed. (43 J. P. 695.)

used for the killing or taking of game, and also to stop and search any cart or other conveyance in or upon which such constable or peace officer shall have good cause to suspect that any such game or any such article or thing is being carried by any such person. Should there be found any game or any such article or thing as aforesaid upon such person, cart, or other conveyance, *the constable can seize (b) and detain such game, article, or thing.*"

The Act does not empower a constable *to take the persons into custody*, but the game, nets, or engines should be seized. A constable has no authority under the Act to seize *dogs or ferrets*. (45 J. P. 198.)

It is questionable whether powder, shot, &c., can be seized. (31 J. P. 47.)

Game. — The word "game" under this Act includes any one or more hares, pheasants, partridges, eggs of pheasants and partridges, woodcocks, snipes, rabbits, grouse, black, or moor game, and eggs of grouse, black, or moor game. As to "game," under Game Act, see p. 94, *ante*.

Game to be sold. — In cases of conviction, the game, &c., seized, is to be sold, and amount paid over to treasurer of county or borough ; or the game, &c., may be destroyed by order of justices.

The power of *search* is limited to highway, street, or public place, but seizure in hot pursuit may be in another place (*Lloyd v. Lloyd*, 49 J. P. 630); there must be a seizure of the gun, net, game, &c., "seizure" (according to *Smith, J.*), being a necessary condition precedent to application for summons.

As to game trespass, *see* title "Game," p. 95, *ante*.

Poisons, Sale of. — By 31 & 32 Vict. c. 121, poisons can only be sold by pharmaceutical chemists, or chemists and druggists, registered under the Act. Such persons are required to keep books, in which they are bound to enter particulars of sales.

The Act prohibits the sale of poisons to persons unknown to the seller and requires that a label with the word "poison," &c., shall be affixed to bottle containing poison. Certain exemptions apply to apothecaries, veterinary surgeons, and wholesale dealers in poisons, as also to dealers in patent medicines.

As to Carbolic Acid, *see* p. 165.

Arsenic.—As to special provisions regarding the sale of arsenic, *see* p. 68, *ante*.

Antidotes.—As to antidotes, in "first aid" cases, and alcoholic poisoning (drunkenness), *see* p. 165.

DRUGGING ANIMALS.—(39 & 40 Vict. c. 13.) Any person administering to any horse, cattle, or domestic animal, any poisonous drug or substance (without reasonable cause or excuse) is liable to penalties. Owner or person acting by authority of owner is excepted.

POISONED FLESH PROHIBITION ACT (27 & 28 Vict. c. 115) renders it penal to lay poisoned flesh on land. Poisonous preparations can, however, be placed in stacks, houses, or enclosed gardens for the destruc-

tion of rats and mice, or in drains, provided the drains be protected so as to prevent any dog from entering.

POISONED GRAIN PROHIBITION ACT (26 & 27 Vict. c. 113) renders it penal to sell or expose for sale or to set, lay, or sow, grain so mixed with poison as to render it poisonous, and calculated to destroy life.

Placing poison to kill game is punishable. Penalty £10. (Game Act, 1831.)

Exception.—The use of any solution, &c., used for dressing, &c., any grain or seed for *bonâ fide* use in agriculture only, or the sowing of grain so dressed, is not prohibited.

Police Acts.—See p. 57, and “Introduction,” ix.

Police Statistics.—See p. 57, *ante* ; also p. 81.

Police to Population.—The provision in Police Act, 1839 (sect. 1), that only one constable be appointed for every 1,000 persons is now repealed by Statute Law Revision Act, 1874 (No. 2). The number is now variable. Recent statistics show that in certain large boroughs the number of police varies from 1 to 2·25 per 1,000 persons (*a*). In counties the proportion of population to police is usually higher. In some of the Home counties it is less than 1 to 1,000. A few counties in the West of England show 1 police to 1,300 of population.

(*a*) One Midland borough (the lowest quoted) stood at 0·93.

Criminal Statistics.

Table of Crimes known to Police, and Prosecutions for Drunkenness. Proportions per 100,000 Population (a).

AREAS.	Crimes against Property.	Crimes against the Person.		Prosecutions for Drunkenness.
		Crimes of Violence.	Crimes against Morals.	
Metropolis	358·90	11·95	5·72	994·99
Counties. { Mining	211·07	7·19	7·89	1,119·91
{ Agricultural				
{ Eastern	107·84	3·22	5·45	123·21
{ South-West.	176·55	6·22	8·70	284·55
{ Home	181·41	4·94	6·32	263·15
Manufact'ng Twns	306·21	6·74	4·00	558·25
Seaports	575·60	16·72	5·95	11,020·84
Pleasure Towns ..	282·34	5·93	6·16	387·59

NOTE.—Generally speaking, the worst Counties are those in which Urban and Seaport populations preponderate. In Rural Counties the ratio of crime falls.

1900.—The number of persons for trial on indictment in 1900 was 10,149, the average for preceding five years being 11,238. The decrease appears to be due mainly to the operation of the S. J. Act, 1899.

This Act (SUMMARY JURISDICTION ACT, 1899) empowered justices to try summarily the offence of obtaining money by false pretences, and of setting fire to commons and plantations, and extends from 12 to 16 the age up to which offenders may be tried summarily for all indictable offences except homicide.

The number of persons tried summarily in 1900 was 760,704, the average for previous five years being 700,516.

About 2,200 persons were under police supervision during year (nearly one-half of whom live in London), about 20 per cent. were re-convicted.

The police authorities estimated (April, 1900) that there were 5,256 habitual criminals at large, including 4,170 thieves.

(a) Taken from a return issued in 1898 (19 & 20 Vict.c.69).

Post Office Offences.—7 Will. 4 and 1 Vict. c. 36; 3 & 4 Vict. c. 96, deal with post office offences. The stealing, &c., of post letters by post office officials or other persons is *felony*, as also is the stealing of mail bags. Postmen and mail cart drivers guilty of drunkenness, delay or misconduct, endangering mails, are liable to fine or imprisonment. The Post Office (Protection) Act, 1884, deals with a number of offences such as placing explosive or noxious substance, or any fire or light in letter boxes, sending by post any explosive, or any indecent or obscene communication, forging telegrams, &c.

Preaching.—There is no specific law on the subject of open air preaching; if meetings are held in the street they appear to stand on the same footing as other obstructions of the highway.

Prevention of Crimes Acts (34 & 35 Vict. c. 112 (1871); 42 & 43 Vict. c. 55 (1879)).—These Acts give peculiar powers to the police in dealing with crime and criminals, convicts on license, supervisees, persons twice convicted of crime, publicans harbouring thieves or receiving stolen goods, brothel keepers, persons assaulting police, dealers in old metals, marine stores dealers, “rogues and vagabonds.”

Written Authority.—Chief officers of police can give written authority to search for stolen property (sect. 16), or for arrest of convict on license who appears to be getting his livelihood dishonestly.

Convicts, &c.—Convicts on license and supervisees are required to report themselves to the police. See “Convicts,” pp. 9 and 80, *ante*.

Persons *twice* convicted of crime are for seven years after expiration of last sentence liable to imprisonment under certain circumstances stated in sect. 7 of Act of 1871.

Publicans.—Publicans are liable to penalties for harbouring thieves or allowing stolen goods to be deposited on their premises. The license may be forfeited, and it *shall* be forfeited on a *second* conviction. In event of *two* convictions on the same premises within *three* years, *the premises* are disqualified for *one* year. Brothel keepers are liable to similar penalties for harbouring thieves, &c.

Assaults on Police.—Persons convicted of assaulting police on duty are liable to a penalty of £20, or six months’ imprisonment; on second conviction (*a*) nine months.

Old Metal Dealers.—Any dealer in old metals who receives or bargains for any metal in any quantity of less weight than that below mentioned shall be guilty of an offence against the Act. (Penalty £5.) See also p. 122, *ante*.

Lead or composite, 112 lbs. Copper, brass, tin, pewter, German silver, 56 lbs.

(*a*) Extended by 48 & 49 Vict. c. 75 to cases of “resisting” police.

Rogues and Vagabonds.—Suspected persons frequenting canals, docks, or warehouses, or any street or highway, shall be deemed rogues and vagabonds, and may be apprehended. (Sect. 15.)

Previous Conviction.—Evidence of previous conviction is given by production of record or extract (signed by clerk of court) of conviction and proof of identity.

Convicts.—The Act of 1879 contains provisions regarding “Reporting,” &c., by convicts and super-
visees. See title “Convicts,” p. 80, *ante.*, and p. 9.

Prisons and Prisoners.—See pp. 9, 10, 21, and 81.

Prize Fights.—See p. 53, *ante.*

Public Health Act, 1875 (38 & 39 Vict. c. 55).—This Act consolidates and amends the Acts relating to public health in England. The Act is voluminous and is amended by the Acts of 1890 and 1896. The police can enforce certain provisions of the Act relating to nuisances, common lodging houses, infectious diseases, &c.

Nuisances.—Under sect. 93 of the Act, information of any nuisance as defined in sect. 91 of the Act may be given to the local authority by any person aggrieved thereby, or by any constable or officer of the police force of the district. See also p. 119, *ante.*

Regarding procedure and power of entry of premises, see sects. 105 and 106.

Sale, &c., of Meat unfit for Food.—Sects. 116 to 119 relate to sale or exposure for sale, &c., of

meat unfit for human food. The police have no authority to seize such meat; but a report should be at once made to the medical officer of health or inspector of nuisances.

Infectious Diseases.—Sects. 124 and 125 relate to removal to hospital, under order of justice, of infected person without proper lodgings. The order may be addressed to a constable or officer of sanitary authority. Persons are liable for exposure of infected persons or things.

Where the Infectious Disease (Notification) Act, 1889 (52 & 53 Vict. c. 72), has been adopted (a), the existence of infectious diseases must be reported to the medical officer of health by (1) the head of the family, or (2) the nearest relative, or (3) the person attending patient, or (4) the occupier of the building. Fine for failure, not exceeding 40s. Small-pox, cholera, diphtheria, membranous croup, erysipelas, scarlatina, enteric and typhoid fever, are infectious diseases.

The Act of 1890 (53 & 54 Vict. c. 34) contains provisions regarding disinfecting premises, retention of bodies for more than 48 hours, &c.

Note.—By sect. 171, certain provisions of the Town Police Clauses Act, 1847, are incorporated with the Public Health Act, extending to places that are not under the Town Police Clauses Act, the provisions of that Act regarding obstructions and nuisances in the street, fires, places of public resort, hackney carriages, public bathing, &c.

(a) The Act (which was limited in operation) is extended to the whole Kingdom by 62 & 63 Vict. c. 8.

Sects. 251 to 265 define procedure under the Act and recovery of penalties, &c.

Music, dancing.—The Amendment Act, 1890 (53 & 54 Vict. c. 59). Part IV. of Act, where adopted by local authority, empowers justices to grant music and dancing licenses at special session, 14 days' notice being given to chief of police and clerk to justices.

As to music and dancing licenses, *see* p. 119, *ante*.

Railways.—Under 3 & 4 Vict. c. 97, railway authorities have ample power to deal with persons trespassing on their platforms or premises, or obstructing the officials. Police can interfere in case of breach of peace, and they can take in charge drunken persons handed over to them. *See* p. 47, *ante*.

As to injuries to Railways, *see* 24 & 25 Vict. c. 97, p. 115, *ante*.

Cheap Trains Act.—Police on duty are conveyed at special rates under "Cheap Trains Act" (46 & 47 Vict. c. 34).

Rape.—*See* pp. 4, 122, *ante*; 157, *post*.

Receivers.—*See* title "Larceny," p. 107, *ante*.

Reformatories.—Police are required to comply with any orders issued by inspectors of reformatory schools directing enquiry as to ability of parents or others liable to contribute towards expenses of offenders.

The Act of 1866 required that offenders be first imprisoned for ten days before committal to reformatory, but the Reformatory Schools Act, 1899 (62 & 63 Vict. c. 12 (amending 56 & 57 Vict. c. 48)), provides "that where the offender (*a*) is ordered to be sent to a certified reformatory school he shall not in addition be sentenced to penal servitude or imprisonment." Offenders can be remanded pending arrangements.

Sect. 14 (Act of 1866) contains special provisions regarding offenders under 10 years of age.

Restitution, Rewards, &c.—Under the Larceny Act, s. 100, provision is made for the restitution of stolen property to owner *after conviction of offender*.

By 30 & 31 Vict. c. 35, where stolen property has been sold, the court may order that out of any moneys found on prisoner, an amount, not exceeding the proceeds of sale shall be delivered to purchaser.

By the Pawnbrokers Act, 1872, when stolen property has been pawned, the court may order its restitution to the owner, with or without payment to pawnbroker. (35 & 36 Vict. c. 93, s. 31.)

Advertising.—To advertise for return of stolen or lost property, intimating that no questions will be asked or enquiries made, subjects offender to a penalty of £50 (Larceny Act, s. 102). *See also* "Compounding Offences," p. 79, *ante*.

(*a*) A "youthful offender" is defined as a person between 12 and 16 years of age.

Market Overt is declared to be a fair or market held at stated intervals in particular places. In the City of London, every shop is by custom "market overt"

When goods are sold in market overt (b), the buyer acquires a good title to them (Sale of Goods Act, 1893) (c).

Rewards.—As to reward offered for "information leading to apprehension of offender," see *Turner v. Waller*, L. R. 2 Q. B. 301, 51 J. P. 594; also *Gibbons v. Proctor*, 55 J. P. 617.

Riot.—A riot is a tumultuous disturbance of the peace by *three or more persons* assembled together with intent to assist each other in the execution of some act, which they afterwards actually execute: the offence is a misdemeanor. If they assemble with riotous intent, but do not proceed to action, it is an "unlawful assembly" only. A "rout" is where they proceed to execute the act, but do not execute it.

Riot Act.—The statute 1 Geo. 1, stat. 2, c. 5, contains the proclamation known as the "Riot Act," which is to be read aloud by a magistrate, sheriff, sub-sheriff, or mayor, in the presence of the rioters, silence being first commanded. The following is the form of proclamation:—

(b) As to change of ownership, see *White v. Spettigue*, 9 J. P. 76, and 22 J. P. 374.

(c) Nothing in Act is to affect the law as regards sale of horses.

“Our Sovereign Lord the King chargeth and commandeth all persons being assembled immediately to disperse themselves and peaceably to depart to their habitations or their lawful business upon the pains contained in the Act made in the first year of the reign of the late King George the First for preventing tumultuous and riotous assemblies. ‘God save the King.’”

The proclamation can only be read when *twelve or more persons* are “unlawfully, riotously, and tumultuously assembled together to the disturbance of the public peace.” Should the persons commanded to disperse continue together for *one* hour after the reading of the proclamation they shall be guilty of *felony*.

Public houses may be closed by order of two justices during a riot, or if a riot be anticipated. (35 & 36 Vict. c 94, s. 23.)

Regarding action to be taken by police in cases of rioting, *see* p. 53, *ante*.

An important decision in the case of disturbances at Eastbourne by Salvationists was given in January, 1892, in the Queen’s Bench Division (C. C. R.), *R. v. Clarkson and Others*, 56 J.P. 375. The court held that there was no evidence upon which the defendants (the Salvationists) could be found guilty of unlawful assembly. As to indictment for nuisance by Salvation Army, *see McClenaghan and Others v. Waters* (“The Whitchurch Case”), noted in *Times*, 17th July, 1882. (“Stone’s Justices’ Manual.”)

Sale of Liquor to Children.—The Intoxicating Liquors (Sale to Children) Act, 1901 (1 Edw. 7, c. 27), repeals the Act of 1886. The sale of liquor to any person under the age of 14 years (*a*), except in corked and sealed vessels (*b*) (containing not less than one pint) is illegal.

Servants.—*See* p. 117.

Shop Hours Regulation Act.—*See* p. 91.

Smuggling.—The Customs Law Consolidation Act, 1876, authorizes police, upon reasonable suspicion, to stop and examine any cart, waggon, &c., suspected of conveying smuggled (*c*) goods. Such goods can be seized. Sect. 186 authorizes detention of offenders. Penalty £100.

Soldiers.—*See* p. 47.

Suicide.—*See* p. 50.

Summary Jurisdiction Acts (11 & 12 Vict. c. 43 (1848); 42 & 43 Vict. c. 49 (1879)).—The S. J. Act, 1879, extends the powers of magistrates, enabling them in certain cases to deal summarily with indictable offences. *See* p. 101. (*d*.)

(*a*) Sect. 2 of Act exempts messengers of licensees.

(*b*) "Corked" means closed with plug or stopper. "Sealed" means secured with substance without destruction of which plug or stopper cannot be withdrawn.

(*c*) All goods liable to duty upon which customs duty has not been paid, or the importation of which is prohibited, and which are unshipped or in transit.

(*d*) As to S. J. Act, 1899, *see* p. 130.

Court.—Two justices sitting in petty sessions or one stipendiary magistrate constitute a court of summary jurisdiction.

Procedure.—Where value of property stolen or destroyed *exceeds* 40s. the court may, with consent of person charged, deal summarily with the case: punishment, imprisonment not exceeding six months.

Where value of property does *not exceed* 40s., the court may, with the consent of the person charged (if adult), deal summarily with offence(a): punishment, imprisonment three months, or fine £20.

Previous Conviction.—Where an adult is charged with any indictable offence specified in the first schedule to the Act, and it appears to the court that the offence is one which, owing to “previous conviction” on indictment of the person so charged, is punishable by law with penal servitude, the court shall not deal with the case summarily. (Sect. 14.)

Fines.—Fines may be paid by instalments. (Sect. 7.)

Where the fine does not exceed *five shillings* an order for costs need not necessarily be made by the court, and fees payable or paid by the informant may be remitted or repaid to him. The court can order the fine or part thereof to be paid to the informant in or towards payment of costs. (Sect. 8.)

(a) In case of children or young persons court can deal summarily with offences of greater magnitude. (Ss. 10, 11.)
“Youthful Offenders,” *post*.

The police should in such cases request the court (at the time of hearing) to *direct that the fees be remitted*.

Whipping.—Children ordered to be whipped are to be whipped with a birch rod *by a constable* in the presence of an inspector or other officer of police of higher rank than a constable. The parent or guardian of the child may be present, and a medical man may, if desired, attend. (Sect. 10.) *See also* title “Whipping,” *post*.

Open Court.—All cases shall be heard in *open court*, viz., a petty sessional courthouse or an occasional courthouse; an “Occasional Courthouse” being a place specially appointed for hearing cases.

Warrants, &c.—As to warrants of commitment for nonpayment, and as to warrants of distress, *see* sect. 21. As to procedure in the execution of distress warrants, *see* p. 34, *ante*.

As to *warrant or summons not being void* by reason of the death of the justice who signed same, *see* sect. 37.

Witnesses.—As to summons of witness when out of jurisdiction of court, *see* sect. 36.

Bail, &c.—A person taken into custody for an offence *without a warrant* shall be brought before a court of summary jurisdiction as soon as practicable, and if it is not or will not be practicable to bring him before a court within twenty-four hours after arrest, a superintendent or inspector of police, or other officer of police of equal or superior rank or in charge

of any police station, shall enquire into the case and, *except* where the offence appears to such superintendent, inspector, or officer to be of a serious nature, *shall* discharge the prisoner upon his entering into a recognizance, with or without sureties for future appearance. (Sect. 38.)

The indictable offences which can be dealt with summarily are set forth in first schedule to Act.

As to provisions of S. J. Act, 1899, *see* p. 130.

Repeal.—The Juvenile Offenders Act, the Small Penalties Act, the Criminal Justice Act, and the Summary Jurisdiction Act, 1850, are (*inter alia*) repealed by the Summary Jurisdiction Act, 1879.

Sunday.—*The Sunday Observance Act, 1677 (a)*, enacts that no drover, butcher, or waggoner shall travel on Sunday, and that no tradesman, artificer, workman, or labourer, or other person, shall do any worldly labour, or exercise their trade or calling, or shall publicly cry, show, or expose for sale any wares, fruit, goods, &c., on the Lord's Day. (Penalty, 5s.)

Street Noises, &c.—By sect. 3 of Act, milk can be cried at certain times; and other Acts (10 & 11 Will. 3, c. 24, and 6 & 7 Will. 4, c. 37) regulate sale of mackerel, Sunday baking, &c.

There shall be no meetings, assemblies, or concourse of people out of their own parishes on the Lord's Day for any sports or pastimes (*b*).

(a) 29 Car. 2, c. 7.

(b) The strict enforcement of such a regulation would make a cricket match between two parishes, played on a Sunday, illegal.

Procedure.—34 & 35 Vict. c. 87 (cont. 35 & 36 Vict. c. 88) prohibits proceedings being taken under the Act of Charles 2, without the *consent in writing of the chief constable or two justices*. The justices who give such consent in writing cannot adjudicate on the case.

As to Arrest on Sunday, *see* Chap. II.; as to issue of Warrants, Chap. IV., Part I., *ante*; as to Shooting on Sunday, *see* title "Game," *ante*; as to Closing Licensed Premises, Billiard Rooms, &c., *see* title "Licensing"; *also* "Billiards," p. 111, *ante*.

Swearing.—By an Act passed in the reign of Geo. 2 (19 Geo. 2, c. 21), any person profanely cursing or swearing is liable to money penalties, which vary, according to the offender's degree and position: for a day labourer, soldier, sailor, or seaman, 1s.; for any other person under degree of gentleman, 2s., of the degree of gentleman, 5s.; for second offence, double; third, treble(c). If proceedings be taken under this Act (which is seldom enforced) the information must be upon oath, and laid within *eight* days. Police may seize offender if unknown.

Telegraphs.—Post office officials disclosing contents of any message are guilty of misdemeanor. (Telegraph Act, 1868.)

As to injuries to telegraph wires, *see* Malicious Damages Act, p. 115; *also* Chap. VI., p. 49, *ante*.

(c) The Act does not appear to apply to women.

Theatres. — The County Council are now the authority as regards the licensing of places (a) for the public performance of stage plays. The council may depute its authority to justices in petty sessions, or to a committee.

The license is to be granted to the actual and responsible manager. (6 & 7 Vict. c. 68.)

Penalties attach to performing in unlicensed places. "Acting for hire" where any money is taken for admission, or where performance is in any place where exciseable liquor is sold. (Sect. 16.)

"Stage play" (b) includes every tragedy, comedy, farce, opera, burletta, interlude, melodrama, pantomime, or other entertainment of stage. Theatrical representations in booth (c) or shows at any lawful fair or feast are not prohibited. (Sect. 23.)

See also title "Music and Dancing," p. 119, *ante*.

Traffic.—The Town Police Clauses Act, 1847, is, by sect. 171 of the Public Health Act, 1875, applicable to all urban sanitary districts. The local

(a) Army and Navy recreation rooms are excepted.

(b) A dialogue between two persons in costumes and characters is within section. *Thorne v. Colson*, 25 J. P. 101. "Sketches" at music halls are stage plays. (58 J. P. 369.)

(c) A tent or booth used by strolling players is not a "place of public resort." (Sect. 2 of Act.) *Davy v. Douglass*, 28 L. J. 193. But a booth used as a temporary theatre is a "place" within sect. 11 of Act. *Tarling v. Fredericks*, 38 J. P. 109.

authority can direct constables to keep order in streets near theatres, &c.

Threats.—To demand money or property from anyone by menaces or force is felony, as is also the threatening to accuse anyone (with intent to extort) of infamous or abominable crime.

Threshing Machines (Steam).—By 41 Vict. c. 12, it is enacted that in order to prevent accidents, the drum and feeding mouth of all threshing machines shall whilst working be kept sufficiently and securely fenced, so far as reasonably practicable. Penalty for neglect £5.

A constable has power of entry on premises to enforce the Act.

Re Chaff Cutting Machines, see 60 & 61 Vict. c. 60.

Towns Improvement Clauses Act, 1847 (10 & 11 Vict. c. 34).—Certain offences contained in this Act are incorporated with the Public Health Act, 1875 (sects. 160, 169). The Act is in force in every urban sanitary authority, and may be applied (under sect. 276) to rural sanitary authorities.

A penalty of 40s. can be inflicted for various offences enumerated in the Act: defacing or failing to renew numbers on doors, failing to remove projection or obstruction after notice given, defective cellar covering in pavement, defective water spouts, &c. Defective fence and hoarding, &c., penalty, £5. Unlicensed slaughter house, penalty, £5. Sect. 131 deals with unwholesome meat.

Town Police Clauses Act, 1847 (10 & 11 Vict. c. 89).—Some of the provisions of the Act regarding obstructions, nuisances, &c., are incorporated in the Public Health Act, 1875; but although such provisions can be enforced by the police in some districts, they cannot be so enforced in places where local boards exist except by officers appointed by the boards (*a*), inasmuch as sect. 253 of the Public Health Act restricts the proceedings for recovery of penalties *to the person aggrieved and to the local authority*.

As, however, many of the offences mentioned in the Town Police Clauses Act are also offences under the Vagrant Act, the Highway Acts, and the Licensing Act, 1872, offenders can frequently be dealt with under these Acts without reference to local boards.

Obstructions and Nuisances in Streets.—Local authority can make orders regarding the route to be observed by carts, carriages, &c., on certain occasions. (Sect. 22.)

Cattle found at large in street can be impounded. (Sect. 26.)

Under sect. 28 persons are liable to a penalty of 40s. for certain offences committed in any street (*b*) to

See case of *Kyle v. Barber* (Torquay), 58 J. P. 483, in which Q. B. D. quashed a conviction on the ground that the Local Board could only delegate authority to its own officers and not to county police; but *see* now under head of *Procedure*, p. 148, *post*.

(*b*) "Street" includes any road, square, court, alley, thoroughfare, and public passage, but not any spot from which the public may be shut out by owner of soil. *Curtis v. Emberry*, 42 L. J. 39.

the obstruction, annoyance, or danger of residents or passengers. (The words in italics govern the whole section.)

The following are some of the offences enumerated in the section (28):—

Obstructions and nuisances by animals, &c., in streets; allowing unmuzzled dogs at large; furious driving and other offences regarding riding, driving, &c.; obstructing footway with goods, &c.; projections, &c.; rolling hoops; hanging clothes; prostitutes importuning passengers; selling, &c., obscene books; exposing person (*c*); discharging firearms or fireworks; ringing bells; flying kites, making slides, &c.; cleaning casks, shaking carpets, &c.; throwing rubbish, &c. (except snow), from roof; placing flower-pots, &c., unguarded on upper windows; standing on sill to clean windows; leaving any cellar, vault, or sewer, &c., open; throwing out dust, litter, nightsoil, &c.; keeping pig-stye in front of street or swine so as to be a nuisance.

[Several of the foregoing offences are punishable under the Highway, Vagrant, and other Acts.]

Drunkenness.—Persons found drunk and riotous in street are liable to a penalty of 40s. (Sect. 29.)

Fires.—Persons wilfully setting chimneys on fire are liable to a penalty of £5. If a chimney accidentally catches fire the occupier of premises is, under certain circumstances, liable to a penalty of 10s.

Harbouring.—Publicans, beerhouse keepers, refreshment house keepers, &c., are liable to penalties for harbouring constables on duty, or for allowing

(*c*) Not necessarily “with intent to insult female” as in Vagrant Act.

prostitutes (*a*) or thieves to remain on premises. (Sects. 34 and 35.)

Baiting.—Persons keeping a place or pit for worrying or baiting animals are liable to penalties. (Sect. 36.)

Hackney Carriages.—Proprietors and drivers of hackney carriages are liable to penalties for certain offences. (Sects. 48 to 64.) Local authorities can make bye-laws regarding hackney carriages. (Sect. 68.) Refusing to pay proper fare is an offence. (Sect. 66.) (*b*)

Public Bathing.—Local authorities can make bye-laws regarding bathing machines, &c. (Sect. 69.)

Procedure.—The Home Secretary has advised (in circular letter of May 19th, 1893) that in view of sect. 253 of the Public Health Act, 1875, only an officer of the Urban Sanitary Authority can prosecute for offences other than those in sect. 25 (impounding) of the Statute, but the case is different as regards sect. 28, as the power to any constable to apprehend, implies a general authority to inform, and the decision in the case of *Kyle v. Barber* (*c*) (which was a decision under a local Act where there was no such provision) is not applicable. (58 J. P. 483; “Stone’s Justices’ Manual.”)

Trades Unions.—The Conspiracy and Protection of Property Act, 1875, deals with offences of intimidation by violence or by persistent following, hiding tools, &c.

(*a*) Prostitutes are entitled to refreshments like other people. (22 J. P. 815.)

(*b*) The fare, though recoverable as a penalty, is really a debt.

(*c*) See p. 146, *ante*.

Tramways.—Any person wilfully obstructing or damaging a tramway is liable to a penalty of £5. (33 & 34 Vict. c. 78.)

Treason.—*See* Chap. IX., p. 62, *ante*.

Treasure Trove.—*See* Chap. IX., p. 63, *ante*.

Trespass.—Mere entry on the land of another is not criminal (*d*), but refusal to leave may provoke a breach of peace calling for police interference.

The police may aid an occupier to turn out of his house or premises a trespasser who refuses to leave, having no right there. *See* p. 44, *ante*.

The constable should carefully enquire as to the real facts of the case before assisting; unless some criminal charge be involved, there is no authority to arrest for the trespass, nor can police interfere where claim of right or title be set up (*e*). *See also* title "Game," p. 95, *ante*, and "Railways," pp. 47, 135.

Truck Act.—The Truck Act, 1831, is referred to under heading "Employers and Workmen." The Act is extended by the Truck Acts, 1887 and 1896.

The Act of 1896 permits no fine or deduction from wages to be made which is not under specific contract or implied contract.

If not a "forcible entry." *See* p. 94, *ante*.

(*e*) A claim of right or title may oust jurisdiction of justices. *White v. Feast*, L. R. 7 Q. B. 353; 36 J. P. 436.

Uniforms Act, 1894.—Penalties attach to unauthorized wearing of military uniform. Exceptions are made in certain cases—bands, stage dress, &c.

Vaccination.—To neglect to vaccinate a child is an offence, but no person shall be liable to a penalty who satisfies justices that he conscientiously believes that vaccination would be prejudicial to health of child (Act of 1898).

Vagrancy.—The Vagrancy Act, 1824 (5 Geo. 4, c. 83), divides vagrants into three separate classes, viz., (1) idle and disorderly persons, (2) rogues and vagabonds, and (3) incorrigible rogues; but such distinctions need not necessarily be observed when proceeding against persons for offences against the vagrancy laws. The following are offences:—

(1.) *Any person wandering abroad (a) and placing himself or herself in any public street or highway, court, or passage, to beg or gather alms, or causing, or procuring, or encouraging any child so to do.*

(2.) *Any person wandering abroad or lodging in any barn or outhouse, &c., or in the open air, or under a tent, cart, or waggon, having no visible means of support, and not giving a good account of himself or herself.*

(3.) *Common prostitutes wandering in the public streets, public highways, or in any place of public resort, behaving in a riotous or indecent manner (b).*

(a) Persons seeking assistance under exceptional circumstances are not "vagrants" within section. *Pointon v. Hill*, 12 Q. B. D. 306; 53 L. J. 62; 48 J. P. 342.

(b) Under the Vagrancy Act, 1899, male persons can be punished for "trading on prostitution."

(4.) *Any person going about as a gatherer or collector of alms, or endeavouring to procure charitable contributions of any nature or kind under any false or fraudulent pretence, commonly called begging-letter impostors.*

(5.) *Any person betting or playing in any street, road, highway, or other open or public place (c) at or with any table or instrument of gaming at any game or pretended game of chance (d).*

(6.) *Any person leaving his wife or children chargeable to any parish.*

(7.) *Any person found in the possession of picklock keys or other instruments of housebreaking with intent feloniously to break into any house or other building.*

(8.) *Any person found in or upon any dwelling-house, warehouse, coachhouse, stable, or outhouse, or in any enclosed yard, garden, or area for any unlawful purpose.*

(9.) *Any person exposing to view in the street any obscene print or exhibition.*

(c) A railway carriage in transit is a public place. *Langrish v. Archer*, 52 L. J. 47; 47 J. P. 295.

(d) *Amendment Act* (36 & 37 Vict. c. 38 s. 3), in effect repeals enactment contained in Vagrancy Act. Every person playing, betting, or gaming in any street, road, highway, or in any open place to which the public have, or are permitted to have access, at or with any table or instrument of gaming at any game or pretended game of chance, is to be deemed a rogue and vagabond, and may be punished under 5 Geo. 4, c. 83, by penalty, for first offence, 40s., and for subsequent offences, £5.

(10.) *Any person in any street, public thoroughfare, or in view thereof, or in any place of public resort, wilfully and indecently exposing his person with intent to insult a female.*

Fortune Tellers, (a) &c.—Persons pretending to tell fortunes come under provisions of Vagrancy Act, 5 Geo. 4, c. 83, s. 4, also under 9 Geo. 2, c. 5, which deals with persons pretending to use witchcraft.

Arrest.—Any person may apprehend any one found offending against Vagrancy Act, but the person must be “found offending,” or doing specific act. It was held (*Horley v. Rogers*, 29 L. J. 140) that arrest without warrant, of a man charged with neglecting to maintain family, was not justified (b).

A constable neglecting his duty under Act is liable to a penalty of £5, and any one who shall disturb or hinder constable, can be prosecuted.

RELIEF OF VAGRANTS.—Members of the constabulary are frequently appointed assistant relieving officers of vagrants. 11 & 12 Vict. c. 110, enacts that any person applying for relief who does not, when required by the guardians, their officers, or the overseers, make complete and correct disclosure of the money or other property in his possession and under his immediate control, is declared to be “idle and

(a) By statement of Home Secretary in House of Commons (May, 1898), the case of “Palmists” was differentiated in absence of “intention to impose.” Regarding “Spiritualists,” see *Monck v. Justices of Huddersfield*, 41 J. P. 118.

(b) In such a case the constable should have the warrant in his possession at time of arrest. *Codd v. Cabe* 45 L. J. 101 ; 40 J. P. 506.

disorderly " within the meaning of the Vagrancy Act and liable to be dealt with as such.

The following is a copy of a Minute of the Poor Law Board:—

“ With respect to the applicants that will thus come before him the relieving officer will have to exercise his judgment as to the truth of their assertions of destitution, and to ascertain by searching them whether they possess any means of supplying their own necessities. He will not be likely to err in judging from their appearance whether they are suffering from want of food. He will take care that women and children, the old and infirm, and those who, without absolutely serious disease, present an enfeebled or sickly appearance, are supplied with necessary food and shelter. As a general rule, he would be right in refusing relief to able bodied and healthy men, though in inclement weather he might afford them shelter, if really destitute of the means of procuring it for themselves. His duties would necessarily make him acquainted with the persons of the habitual vagrants, and to these it would be his duty to refuse relief, except in case of evident and urgent necessity.”

Verminous Persons.—*See p. 78, ante.*

Vexatious Indictment Act (22 & 23 Vict. c. 17), enacts that preliminary hearing or investigation take place in certain cases before indictment can be laid.

Weights and Measures.—The Act of 1878 (41 & 42 Vict. c. 49), amended by Act of 1889, requires that all weights and measures used for trading purposes be stamped with a stamp of verification by an inspector under the Act.

Weighing instruments must be verified, and coal sold by weight. (Act of 1889.)

Officers appointed inspectors should at once obtain a *warrant* (sect. 48) authorizing them to enter shops, &c., for the purpose of examining weights, scales, &c. (*a*).

The following are important sections of Act (1878):—

Sects. 28, 30, 34 45, and 46.—Stamping and verification.

Sect. 44.—Attendance for verification.

Sect. 47.—Payment of fees.

Sect. 48.—Power of entry.

Sect. 49.—Penalties to which inspectors are liable.

Sect. 57, (para. 5).—Disposal of weights and measures seized, which are to be broken up.

Examining and Adjusting.—Inspectors are required (once in twelve months at least) to go round their

(*a*) Weights and measures found on premises are held to be there for the purposes of trade till the contrary is proved. (Sect. 29.)

The lawfulness of selling beer by the “glass” appears by a Scotch case (*Craig v. McPhee*) to have been settled in favour of the seller. (51 J. P. 323.)

districts to examine all weights and measures brought for adjustment, due notice being given to traders.

An inspector should subsequently, at uncertain periods, visit towns and villages in district to inspect weights and measures.

An inspector stamping the weights or measures of a person residing outside his district is liable to a penalty of £20 for each weight, &c., stamped. (Sect. 23.)

A weight (provided it is a copy of the Board of Trade standard) can only be considered an illegal weight when it is found to be *false or unjust* or when *not stamped* with the inspector's stamp of verification; and it is to be noticed that an old stamp of verification must be recognized, although the mark may have become almost obliterated by use (*Starr v. Stringer (b)*, see "Stone's Justices' Manual"). Sect. 28 of Act requires that all weights should have the denomination marked thereon in legible figures and letters. These should be cast, or cut, or engraved on the weight (*see* definition "Stamping," sect. 70 of Act), and not inserted on plugs or plates. The denomination should also be legibly marked on all measures of capacity. The Act does not, however, require that it should be marked upon *measures of length*. See 45 J. P. 150.

Sale of Coal Act (52 & 53 Vict. c. 21).—Coal is to be sold by weight except when with written consent of purchaser it is sold by boat, waggon, or tub.

When coal over 2 cwt. is delivered by vehicle, a ticket or docket must be sent by seller to purchaser.

Whipping.—The Whipping Act, 1862 (25 & 26 Vict. c. 18), authorizes punishment by whipping. As to the whipping of children, *see* p. 141.

Wife (a) (*Immunity*).—A wife cannot be convicted of larceny, burglary, or forgery committed in the presence of her husband, as she is presumed by law to have acted under coercion ; but this presumption may be rebutted. In treason, murder, homicide, perjury, and in misdemeanors generally, this “coercion” will not avail her. By common law a married woman cannot be convicted of stealing goods belonging to her husband, but this has been modified by the M. W. Property Act, 1882. *See* p. 116.

Wild Animals in Captivity—Protection Act, 1900. —The Act (63 & 64 Vict. c. 33) makes it an offence to cause unnecessary pain to or to terrify any wild animal (b) in captivity. The word “animal” means any bird, beast, fish or reptile which is not included in the Cruelty to Animals Acts, 1849 and 1854.

(a) As to protection of married women (person and property), *see* p. 116, *ante* ; also pp. 122, 157.

(b) The Act does not apply to the hunting or coursing of any animal which has not been liberated in a mutilated or injured state in order to facilitate its capture.

Women and Girls.—The Criminal Law Amendment Act, 1885 (48 & 49 Vict. c. 69), provides for the protection of women and girls, for the suppression of brothels, and other matters. See pp. 121, 122. Offences under Act are not triable at sessions.

Procuration.—Under the Act (sect. 2), the “procuration” (of any woman or girl), for immoral purposes, is an indictable misdemeanor, as is also the procuring the defilement of same by threats, fraud, or drugs. (Sect. 3.)

Defilement.—The defilement of girl under thirteen is felony (c). The attempt is a misdemeanor, as is defilement of girl (d) between 13 and 16. (Sect. 4, 5.)

The evidence of the girl or of any child of tender years is receivable, even though not on oath.

Idiots.—Sect. 4 contains special provisions for the protection of idiots or imbecile women.

Under sect. 6, a householder is liable who permits the defilement of young girls on his premises. Where the girl is under thirteen years of age the offence is felony; if over 13 and under 16 a misdemeanor.

Personation (Rape).—Sect. 4 declares an offender guilty of rape (e) who induces a married woman

(c) This section is substituted for 38 & 39 Vict. c. 94, s. 3, which limited age to 12. “Consent” on the part of child is no defence to charge.

(d) A girl may be legally married at 12 and a boy at 14.

(e) See also p. 122.

to permit him to have connection with her by "personating" her husband.

Abduction.—The abduction of any unmarried girl under eighteen with intent to have carnal knowledge of same is a misdemeanor. (Sect. 7.) As to criminality in case of abduction of unmarried girl under sixteen, see "Offences against Person" (*Abduction*), p. 121, *ante*.

Detention.—Sect. 8 deals with the detention of any woman or girl on any premises against her will with intent to have carnal knowledge of same. A proviso in this section prohibits any legal proceedings being taken against any woman or girl who having been deprived of her wearing apparel is subsequently found in possession of any such apparel as was necessary to enable her to leave such premises or brothel.

Warrant.—Warrants may be issued to search for any woman or girl supposed to be detained for immoral purposes. (Sect. 10.)

Indecency.—Sect. 11 relates to acts of gross indecency by male persons. See also p. 122, *ante*.

Brothels.—Any person who keeps or manages a brothel, or being the occupier, &c., of any premises allows them to be used as a brothel (*a*), or for the pur-

) A brothel is a place to which persons of opposite sexes are allowed to resort for illicit intercourse. A house occupied by one woman for the purpose of prostitution is not a brothel. *Singleton v. Ellison* (1895), 64 L.J. 123; 59 J P. 119.

poses of habitual prostitution, or being landlord or agent lets premises for such purpose shall, on summary conviction in manner provided by the Summary Jurisdiction Acts, be liable to a penalty of £20, or imprisonment for three months; second conviction £40, or four months (*b*). (Sect. 13.)

Witnesses.—Persons charged with offences under this Act are competent witnesses in the case, as is also the wife of any person so charged. (Sect. 20.)

The same rule applies to persons charged under sects. 48, 52–55, of 24 & 25 Vict. c. 100. See p. 121, *ante*.

Wrecks.—Under the Merchant Shipping Acts, the Board of Trade have, throughout the United Kingdom, the general superintendence of all matters relating to wrecks, and can appoint Receivers of Wrecks.

Receivers have power in cases of wreck to summon help and to employ boats, waggon, &c., and persons refusing to assist are liable to a fine of £100.

In absence, &c., of receiver the following persons are in case of wreck or accident authorized to act:—Any principal officer of customs or coastguard or inland revenue, sheriffs, justices, or naval and military commissioned officers on full pay.

The officer acting to be considered the agent of the receiver, to whom goods or articles are to be handed over.

(*b*) As to punishment on indictment under 25 Geo. 2, c. 36, see title “Disorderly Houses,” p. 85, *ante*.

Salvage.—Persons who assist in saving lives of persons, cargo, &c., of any ship stranded or wrecked are entitled to reasonable salvage from the owners.

By 24 & 25 Vict. c. 96, s. 65, persons found in illegal possession of shipwrecked goods are liable to penalties, as also are persons found offering for sale shipwrecked goods unlawfully taken. (Sect. 66.)

By 24 & 25 Vict. c. 97, ss. 47, 48, 49, the exhibiting false signals, &c., with intent to bring any ship, vessel, boat, &c., into danger is felony, as is also the removing or concealing buoys or other sea marks, or destroying wrecks or articles belonging thereto.

“Artificial Respiration.”—See p. 166.

Youthful Offenders.—The Youthful Offenders Act, 1901 (1 Edw. 7. c. 20). Sect. 1 of Act provides for the removal of disqualification attaching to felony—in cases of young persons—Convicted under First Offenders Act, 1887, S. J. Act, 1879. (a) By Sect. 2 parents and guardians are rendered liable in case of offence committed by child. Under Sect. 4 a Court of S. J. may remand or commit youthful offender into the custody of any fit person who is willing to receive him. Sect. 6 provides for recovery of expenses of maintenance from parent or person legally liable.

(a) Or where punishment is whipping only, the conviction should not be regarded as a conviction of felony for purposes of Sec. 15, of Industrial Schools Act, 1866.

NOTES ON AMBULANCE WORK.

"FIRST AID TO THE INJURED."

Ambulance work under the above title has been for some time in vogue amongst Police Forces, and many officers wear badges for which they have to qualify by examination after attendance at ambulance classes.

The following notes on the subject are here inserted in the hope that they may be useful as memoranda to the qualified, and to others give an outline of the system advocated in the various handbooks (a) issued on the subject :—

ACCIDENTS.

In all cases of accidents or sudden illness in the streets the police should afford all necessary assistance, prevent crowding, give aid, undo tight clothing, secure sufferer from annoyance, and if injury be serious send for medical aid ; in cases of fracture, before moving secure part in splints : these may always be formed of sticks, wood, or an umbrella.

"Handbook on First Aid to Injured," by Robert Bruce, St. John's Ambulance Association, Clerkenwell, London, E.C. (1s.

HÆMORRHAGE.

Hæmorrhage or bleeding may be—

Arterial.—Where blood “spurts” *bright* red, apply pressure.

Venous.—Where blood “wells” up *dark* red, apply cold pad of lint and bandage ; keep limb raised.

Capillary.—From *scratch* or graze ; apply cold wet rag.

If blood be vomited, give ice to suck.

In nose bleeding raise head, cold application to forehead.

WOUNDS.

Cleanse wounds by careful washing before dressing ; draw parts together, and keep in place with strips of plaster. If organ protrude cover lightly with warm wet flannels.

FRACTURES.

“Simple,” where bone only is broken.

“Compound,” where broken bone protrudes.

In examining, handle very gently ; leave clothes on for warmth and padding. If movement necessary, attach something firm (as splints) to prevent bone moving. Endeavour to stop bleeding.

Fracture of Collar Bone.—Sign : inability to raise arm. *Treatment* : place rolled handkerchief in armpit ; raise arm in sling.

Fore Arm.—Bend limb, keeping thumb up ; apply two splints, one inside, one out. There being two bones (ulna and radius) fracture of *one* only is not always perceptible.

Ribs.—Signs : Pain when taking breath or coughing ; ends of bones may be felt. Tie bandages firmly round chest.

Leg (Thigh).—Place long splint (broom handles, &c.) from armpit to foot ; tie firmly to body by bandage passing round chest, and above and below fracture, and also in two places below the knee.

DISLOCATION.

Is distinguishable from fracture by injury occurring *at joint* ; limb becomes immovable ; there is no “crepitus ” or grating sensation ; send at once for medical aid.

SPRAINS.

If there be great pain, a hot bath and foment taken, with complete rest ; ordinary cold water and compress ; elevate the limb.

The above treatments can of necessity be of only a very temporary nature, and qualified medical aid should always be summoned as early as possible.

INSENSIBILITY.

Syncope and Fainting.—If a person has fainted, give air ; loosen clothing ; place prostrate, head on level with body, lower than body if possible, and feet and legs as high as possible ; give stimulant ; if exhausted from hunger give warm milk in sips, then beef tea or wine.

Hysterical Fits.—Threaten to drench with water, keep quiet, and exclude friends.

Apoplexy.—Signs : insensibility, stertorous breathing, irregular pupils, paralysis in one or both limbs of one side. — *Treatment* : place prostrate, head slightly raised ; loosen clothing ; keep head cool, and feet warm ; give no stimulant or anything by the mouth.

Epilepsy.—The person seized with fit, generally screams, faints, and falls, hands clenched, limbs jerk, mouth foams.—*Treatment* : do not restrain movements, but prevent injury especially to tongue by putting piece of wood between the teeth ; allow sleep after fit.

Concussion of Brain.—Patient is pale, breathes slowly, eyes shut; probably vomits. Keep feet and hands warm; if a child, let it sleep; in severe cases, treat as for apoplexy. *No stimulants.*

Sunstroke.—Apply ice or cold water to head; avoid stimulants.

FOREIGN BODIES IN EAR.

Send for doctor; do not poke the ear with pins, &c.

BITES OF ANIMALS.

If animal healthy, wash wound well with cold water; if rabid, apply tight ligature heart side of wound, wash thoroughly, wound should then be *cauterised*; give brandy.

Adder or Snake Bite.—Apply strong ammonia; tie ligature between wound and heart; give brandy.

BURNS AND SCALDS.

Exclude air by dredging with flour if skin is *unbroken*; if otherwise, cover burn with very clean rags to keep out the air, and send at once for medical aid. In case of person catching fire, wrap in rug, blanket, or coat (*a*).

Frost Bite.—Avoid sudden change of temperature. Place in cold room, then in warmer one; rub body with snow or cold cloths, then with warm cloths.

STRANGULATION.

Choking.—Endeavour with finger to hook out obstacle, or try and make patient vomit, which can be done by placing on back, kneeling on stomach, and striking on cheek.

Hanging.—Cut rope at once, commence artificial respiration if necessary. *See* p. 166.

(*a*) As to method of passing through smoke unharmed, *see* p. 49.

POISONS.

Antidotes.—As a “first aid” treatment in cases of poisoning emetics (*b*) are generally resorted to.

Poison by Phosphorus (Matches, Rat Poison).—Give emetic, then barley water or milk, *but never oil*.

By Opium (Laudanum).—Give mustard or salt emetic ; prevent sleep by walking patient about, or flicking bare feet with wet towel ; give strong black coffee ; dash cold water on head and face.

By Carbolic Acid.—Mouth smells of tar ; give olive oil, tablespoonful.

[*By Order in Council, 26 - 7 - 1900, Carbolic Acid (with certain exceptions) is declared a poison under Pharmacy Act, 1868.*]

By Oxalic Acid.—Give chalk or whiting mixed in water.

Alcoholic Poisoning (Drunkenness).—Give emetic (salt or mustard), and repeat if ineffectual ; after vomiting, patient should sleep ; keep warm ; hot tea is a good stimulant ; a drunken person can be roused by rubbing his ears, but this treatment may cause him to strike out.

ARTIFICIAL RESPIRATION.—This should be employed when breathing has become very feeble or has ceased, as in cases of hanging, drowning, suffocation, &c. [Persevere in efforts until arrival of medical aid, or until pulse and breathing have ceased for two hours or more.]

(*b*) A simple emetic can be made by dissolving a teaspoonful of *made* mustard in a tumbler of warm water, or a tablespoonful of salt similarly mixed.

Drowning.—Place body on ground with face downwards, a pad or folded coat under stomach, with forehead resting on folded arm: with pressure on back, over pad, all fluid will escape from mouth; (on no account hold patient up by the feet); after a minute, roll him on to his back and commence artificial respiration (*Dr. Sylvester's method*), thus:

Patient being on his back, on flat surface, inclined a little from feet upwards, place small firm cushion, or rolled-up article of clothing, under shoulder blades. If not already done, remove all tight clothing from neck and chest; cleanse mouth and nostrils; open mouth, draw forward tongue and keep it so by elastic band round it and chin; kneel at patient's head, grasp his arms, raise them upwards by side of head, and stretch them steadily but gently upwards, for two seconds (this will draw air into lungs by raising ribs). Immediately turn down patient's arms, pressing them firmly but gently downwards against sides of chest, for two seconds (this will expel foul air from lungs by depressing ribs). Repeat these measures alternately, deliberately, and perseveringly, fifteen times in a minute, until spontaneous effort to respire be perceived (this will produce exchange of air in lungs similar to that of natural respiration). During above treatment excite nostrils with snuff or smelling salts, or tickle throat with feather. Rub chest and face briskly and dash on them cold and hot water alternately. Friction limbs and body with dry flannel or cloths. When spontaneous effort to respire is perceived, cease to imitate movements of breathing, and induce circulation and warmth; wrap patient in dry blankets, rub limbs upwards firmly and energetically; promote warmth of body by hot flannels, bottles or bladders of hot water, heated bricks, to the pit of the stomach, the armpits, and to the soles of the feet. On restoration of life, when power of swallowing has returned, give a teaspoonful of warm water, small quantities of wine, warm brandy and water or coffee. Keep patient in bed, and encourage sleep.

During reaction large mustard plasters to chest and below shoulders will relieve distressed breathing. In cases of prolonged immersion in cold water, when breathing continues, warm bath should be given to restore temperature.

APPEARANCES WHICH GENERALLY ACCOMPANY DEATH: No breathing nor heart's action; eyelids generally half closed; pupils dilated; jaws clenched; fingers semi-contracted; tongue appears between teeth; mouth and nostrils covered with mucous.

QUESTIONS FOR CONSTABLES.

(In connection with Part I. of Book.)

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Q. 2.—How may crimes be classified?

What are felonies?

What misdemeanors?

Is the power of arrest affected by classification of crime? *p. 2.*

Q. 3.—Define the following crimes—

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“Forgery,” “Embezzlement,” “Arson,” “Rape,” *pp. 3, 4.*

Q. 4.—What is a “bailee”? *p. 3.*

Q. 5.—How do you classify—

“Concealment of birth”? *p. 4.*

“Attempted crime”? *pp. 4, 107.*

Q. 6.—What steps should be taken in investigating—

“Murder,” “Burglary,” “Fowl-stealing,” “Arson”? *pp. 5, 6.*

Q. 7.—What course should be adopted regarding
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“uttering” counterfeit coin be indicted for
felony? *p. 7.*

- Q. 9.—What evidence is necessary to prove “concealment of birth”? p. 7.
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